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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

WILLIAM J. WHITSITT,
Plaintiff,

v.

DEPUTY SHERIFF WHEATFALL, BADGE
#429; DEPUTY SHERIFF A. GARTH, BADGE
1340; UNNAMED POLICE OFFICER;
CENTRAL TOWING & TRANSPORT; COUNTY
OF ALAMEDA, SHERIFF'S DEPARTMENT;
CITY OF DUBLIN POLICE SERVICES;
UNNAMED DEFENDANTS
Defendant.

Case No.: C08-02139 BZ

DEFENDANT COUNTY OF ALAMEDA'S
REQUEST FOR JUDICIAL NOTICE OF
PLAINTIFF'S PREVIOUSLY FILED
ACTIONS: C08-01802 JSW; and C08-
01803 EDL; C08-02138-CW

Date: September 3, 2008
Time: 10:00 am
Courtroom: G

Pursuant to USCS Fed Rules Evid, Rule 201, Defendant's Deputy Sheriff Wheatfall, Deputy Sheriff A. Garth, County of Alameda, Sheriff's Department, City of Dublin Police Services, (hereinafter, "COUNTY DEFENDANTS,") respectfully request the Court take Judicial Notice of Plaintiff, William J. Whitsitt's, Complaints filed in C08-02138-CW; C08-01802 JSW; and C08-01803 EDL, which DEFENDANTS believe allege civil rights violations purporting to arise from the same acts and events from which the current Complaint, C08-02139 BZ, arises.

1 Pursuant to USCS Fed Rules Evid, Rule 201, COUNTY DEFENDANTS also request the
2 court take judicial notice of all orders made in the related cases. This request is made as
3 courtesy to the Court to prevent re-litigation of issues previously adjudicated, and to ensure
4 the finality of all previous decisions and orders.

5 The Complaints and Orders are attached herein as Exhibits 1-11.

6
7 DATED: July 15, 2008

RICHARD E. WINNIE
County Counsel in and for the County of
Alameda, State of California

9
10 *s/ Diane C. Graydon*
By _____
11 DIANE C. GRAYDON
12 Deputy County Counsel
13 Attorneys for County Defendants
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1 WILLIAM J. WHITSITT
2 335 W. CLOVER ROAD
3 TRACY, CA 95376
4 (209) 221-1405
5 WHITSITTW@GMAIL.COM

6 IN PROPRIA PERSONA

E-filing

ORIGINAL

FILED

APR 24 2008

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

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pd.

Northern Dist

San Francisco

8 IN UNITED STATES DISTRICT COURT FOR ~~EASTERN~~ DISTRICT OF CALIFORNIA ~~SACRAMENTO~~

9
10 C10 WILLIAM J. WHITSITT
11 (PLAINTIFF)

12 -----VS-----

13 Central Towing Transport-TOWING STORAGE AGENCY)

14 COUNTY OF ALAMEDA)

15 City of Dublin Police Services)

16 10 UNNAMED DEFENDANTS)
17 (DEFENDANTS))
18)
19)

C08-02138

CW

ADR

COMPLAINT SECTION 1983
FALSE IMPRISONMENT UNLAWFUL
TOW FROM OUTSIDE OF CITY
AND COUNTY AUTHORITY
AND CONSPIRACY UNDER THE
COLOR OF STATE LAW.

20 Comes Now, William J. Whitsitt, a Natural Born Citizen of the United States exercising
21 the Full Rights of Sovereignty as We The People. I come to this Court Seeking Full
22 Redress and A Remedy At Law. For Sovereignty of We The People See: CHISHOLM v. GEORGIA
23 (US), 2 Dall 419, 454, 1 L Ed 440, 455 (1793) pp 471-472; BOYD v. STATE OF NEBRASKA, 143 U.S. 135 at 158 (1892)
24 2 Dall 419. I come to this Federal District Court to Seek Remedy for a Towing and Seizing
25 My Private Property under the Color and Guise of State Law, in Violation of Due Process of
26 Law. My Private Property was Towed and Seized from the Private Parking area and Private
27
28

1 Property. The Vehicle Code has NO Jurisdiction upon Private Property. Thus Arrest and Towing
2 of Vehicle from Private Property Unlawful. I was Arrested on Private Property for a
3 Misdemeanor Traffic Violation.

4 **(JURISDICTION)**

5
6 The Venue is Correct, the City of Dublin is in Territorial Limits and Jurisdiction of the
7 Northern District of California.

8 The Subject Matter is Correct, because Section 1983 Grants Statutory Jurisdiction by Act
9 of Congress to the U.S. District Court. ¹Original and Federal Question Jurisdiction.

10 I have Standing to Sue because my Federal Rights where Denied under the Color of
11 State Law.

12
13 "suit arises under the law that creates the cause of action." Id., at 8-9, quoting: American Well Works Co. v.
14 Layne & Bowler Co., 241 U.S. 257, 260 (1916).

15 Sec: § 1343. Civil rights and elective franchise

16 Under the Color and Guise of State Law and City Ordinance the Named Police Officer did
17 Unlawfully, Wrongfully Seize my Person (Arrest), Seize and Tow my Vehicle (Property) from
18 Private Property.

19
20 Misuse of power, possessed by virtue of state law and made possible only because wrongdoer is clothed with
21 authority of state law, is action taken "under color of any statute", within this section. Henig v. Odoroso, C.A. 3 (Pa.)
22 1967, 385 F.2d 491, certiorari denied 88 S. Ct. 1269, 390 U.S. 1016, 20 L. Ed.2d 166, rehearing denied 88 S.
23 Ct. 1814, 391 U.S. 929, 20 L. Ed.2d 671. See, also, Basista v. Weir, C.A. 3 (Pa.) 1965, 340 F.2d 74; Baldwin v.
Morgan, C.A. Ala.1958, 251 F.2d 780; Geoch v. Moynahan, C.A. Ill.1953, 207 F.2d 714; Picking v. Pennsylvania
R. Co., C.C.A. Pa.1945, 151 F.2d 240, rehearing denied 152 F.2d 753; Nugent v. Sheppard, D.C. Ind.1970, 318
F. Supp. 31

24
25 Misuse of Power Under the Color of State Law (California Vehicle Code) Qualifies
26 Section 1983 Civil Rights Jurisdiction.

27
28 ¹28 U.S.C. Section 1343 (3)

(CAUSES OF ACTION UNDER SECTION 1983)

Here is a Brief List of all Claims for Cause of Action under Section 1983. All Claims are Actions taken Under the Color of State of California Law (Vehicle and Penal Code). Thus, creating Causes of Action under Section 1983.

- * **(# 1.) - WRONGFUL TOW OF MY VEHICLE FROM OUTSIDE OF COUNTY AND CITY JURISDICTION.**
- * **(# 2.) - FALSE IMPRISONMENT OUTSIDE OF CITY AND COUNTY JURISDICTION.**
- * **(# 3.) - SEIZING OF VEHICLE PROPERTY IN VIOLATION OF THE FOURTH AND FOURTEENTH AMENDMENTS AND HOLDING FOR (30) DAYS.**
- * **(# 4.) - ACTION UNDER THE COLOR OF STATE LAW.**
- * **(# 5.) - DENIAL OF FORFEITURE HEARING.**

I Move the Court to Grant to me Remedies for the All the Above Causes of Action under the Color of State Law.

(# 1.) - WRONGFUL TOW OF MY VEHICLE FROM OUTSIDE COUNTY AND CITY JURISDICTION.

I have ²Several Witnesses not including myself that the Police Stop took place almost a Half mile within Contra Costa County and the City of San Ramon California. The Stop was outside the County of Alameda and City of Dublin California's Lawful Territorial Boundaries and Jurisdiction. The Argument that I Committed a Traffic Violation in their Presence is Not Valid. At first the Police Officer stated that could not read the Old Original License Plate. It had

²Steve Swift, Rick Lincoln, Michael Swift, myself.

1 a April Temporary Sticker in the back Window. The License Plate has a 2009 Current
2 Registration Sticker on it. The ²Police Officers said he was able to Read my License Plate then.
3 He then stated I believe you have a Stop Light out. This is totally Wrong because I just
4 checked all the Lights: Stop Lights, Turn Indicators and Head Lights just within the last half
5 Hour to make sure everything was working and they where. Thus the old Your Stoplight is
6 Out, Excuse for Probable Cause is Not Valid. It was Lie to Establish Probable Cause. I
7 Demanded that the Police Officer prove to me that my Stop Light was out. They Refused. The
8 Reason they Refused to prove me that Stop Light was out was that it was working. Police
9 Officers are Known Liars under Oath. The Police Officer's Just had to Create a Probable Cause
10 and Excuse for the Unlawful Stop. They had to make up some Excuse for Probable Cause.
11 See: *Berkemer v. McCarthy*, No. 83-710, decided July 2, 1984. See also *Adams v. Williams*, 407 U.S. 143, 148 and *Terry*
12 *v. Ohio*, 392 U.S. 34. The Police Officers where actually looking for Michael Swift who Owned that
13 Dodge Pick Up Truck for many years and was Harassed, Stopped without Justification, Searched
14 and Never Charged for any Real Crime. See: (Affidavit from Michael Swift). The Dublin Police
15 Officers even asked Michael Swift what happened to the Dodge Pick up Truck a couple of
16 weeks earlier.

17
18 There was No Legitimate Probable Cause for the Stop other then Thinking they where
19 Stopping Michael Swift and to Harass him.

20
21 The Stop took place Clearly outside of City Limits and County of Alameda Jurisdiction.
22 Thus, Acting Outside of Their Lawful Jurisdiction and Police Power Authority from the City

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28 ³Alameda County Sheriff Deputy: Whithall # 429; A. Garth # 1340, who are contracted with the city of Dublin Police Services.

1 of Dublin California. Thus, Clearly Establishing a Claim and Cause of Action Under Section
2
3 1983. I have Clear Established my Constitutional Right against Unlawful Stops outside of City
4 of Dublin Police Jurisdiction.

5
6 Henig v. Odoroso, C.A. 3 (Pa.) 1967, 385 F.2d 491, certiorari denied 88 S. Ct. 1289, 390 U.S. 1016, 20 L. Ed.2d
7 166, rehearing denied 88 S. Ct. 1814, 391 U.S. 929, 20 L. Ed.2d 671. See, also, Basista v. Weir, C.A. 3 (Pa.)
8 1965, 340 F.2d 74; Baldwin v. Morgan, C.A. Ala.1958, 251 F.2d 780; Gesch v. Moynahan, C.A. Ill.1963, 207 F.2d
714; Pickling v. Pennsylvania R. Co., C.C.A. Pa.1945, 1 51 F.2d 240, rehearing denied 152 F.2d 753; Nugent v.
Sheppard, D.C. Ind.1970, 318 F. Supp. 314;

9 The City of Dublin Police Services and Alameda County Sheriffs Department must Except
10 Responsibility and Liability also because they have Contracted their Police Services and Liability
11 to Suit. The Respondent Superior Doctrine is Not being Applied here because of Contractual
12 Obligation and Liability by the City of Dublin Police Services and Alameda County Sheriffs
13 Department.

14
15 Let Judicial Notice be taken, here that Central Towing (Towing Agency) Seized, Towed
16 and Stored my Vehicle and is a Named Defendant and Co-Conspirator.

17
18 **FAILURE OF THE CITY OF DUBLIN AND ALAMEDA COUNTY TO**
19 **RESPOND TO AND INVESTIGATE WRONGFUL TOW:**

20 The City of Dublin Police Services and the Alameda County Sheriffs Department Failed
21 to Respond to and Investigate their Named Unlawful Police Actions and thus, become Liable
22 as Co-Conspirators to those Acts. The Named Municipal Corporations have a Lawful Duty and
23 Legal Responsibility to Respond to and Investigate all Allegations of Unlawful Police Acts,
24 Actions, Conduct, Arrest, and all other Police Practices done under their Authority. This is Not
25 Respondent Superior Doctrine Theory. It is the Theory and Doctrine of Municipal Authority being
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Used for the Unlawful acts. This Failure to Respond to and Investigate Unlawful Police Action or Acts, Makes the Alameda County, City of Dublin California, Central Towing and Transporting Liable for their Employees acts as Co-Conspirators to those Unlawful Acts.

(# 2.) - FALSE IMPRISONMENT FROM OUTSIDE OF COUNTY OF ALAMEDA AND CITY OF DUBLIN JURISDICTION.

I was Falsely Imprisoned and Unlawfully held by the City of Dublin and Alameda County in Santa Rita Jail. I was held in Violation of the Fourth Amendment. I was Held against my Will and my Right Liberty and Freedom from Restraint was Denied under the Color of State Law. I had my Right to Freedom of Liberty Denied by a City Police acting under the Authority and Police Powers of the City of Dublin California. My Inalienable Right to Free Movement and Liberty was Violated and Denied without Probable Cause in Violation of the Fourth Amendment. This Right to Freedom from Restraint is Protected beyond the Due Process of Law clause of the Fourteenth Amendment. It Guaranteed by the Fourth, Fifth, Fourteenth, Ninth and the Privilege and Immunities Clause of the Federal Constitution. See: Edwards v. California, 314 U.S. 160, 177, 181 (1941). I have the Inalienable Constitutional and Civil Right to be Free in my Person. See: NEW YORK CITY BD. OF ESTIMATE v. MORRIS, 489 U.S. 688 (1989); MASSACHUSETTS BD. OF RETIREMENT v. MURGIA, 427 U.S. 307.

The INALIENABLE Constitutional and Civil Right to be Free from Arrest and Seizure of my Person is beyond the Right to Personal Liberty, it is Guaranteed by the Fourth Amendment as well: Henry v. United States, 361 U.S. 98 (1959); Johnson v. United States, 333 U.S. 10, 16-17 (1948); Sibron v. New York, 392 U.S. 40, 62-63 (1968).

1 The City Dublin California and the County of Alameda pursuant to a Conspiracy did
2 Deny Clearly Established Constitutional and Civil Right to Freedom of Liberty. The City must
3 have Known that their Actions where in Violation of the Fourth and Fourteenth Amendment
4 Rights. I was Held at Santa Rita Jail for (1) Day. False Imprisonment is a Separate Cause
5 of Action under Section 1983. They Clearly Knowingly, with Wanton and Deliberate Intent, my
6 Fourteenth and Fourth Amendment Constitutional and Civil Right of Freedom from Unlawful
7 Imprisonment. I did Serve (5) Notices to the City of Dublin Police Services and the Alameda
8 County Sheriff's Department about the False Imprisonment Claim. The City of Dublin and
9 Alameda County Sheriffs Department Failed to Respond to and Investigate my Claims. I made
10 full Notices of Objection and Protest for the Unlawful Imprisonment. Let Judicial Notice be
11 taken here, that I did seek Administrative Remedies before Suit was Heard.

12
13 we have previously refused to require exhaustion of administrative remedies where the administrative process
14 subjects plaintiffs to unreasonable delay or to an indefinite timeframe for decision. See Colt Independence Joint
15 Venture v. FSLIC, 489 U.S. 581, 587 (1989); Gibson v. Berryhill, 411 U.S. 564, 575, n. 14 (1973); Walker v.
16 Southern R. Co., 385 U.S. 196, 198 (1966); Smith v. Illinois Bell Telephone Co., 270 U.S. 587, 591-592 (1926).
17 This principle rests on our belief that, when a plaintiff might have to wait seemingly forever for an agency decision,
18 agency procedures are "inadequate," and therefore need not be exhausted. Colt Independence Joint Venture v.
19 FSLIC, *supra*, at 587. McCARTHY v. MADIGAN, 503 U.S. 140 (1992).

20 Thus, the Named Defendants have No Immunity whatsoever.

21 **FACTS OF FALSE IMPRISONMENT:**

22 I was Falsely Arrested from the City of San Ramon And Contra Costa County Under
23 the color of State Law for Vehicle Code Violation Clearly Outside of Alameda County and City
24 of Dublin Jurisdictional Boundaries by. Clearly outside of their Lawful Police Power Jurisdiction.
25 Thus establishing a Clearly Established Constitutional Right and Clear Claim of Violation of my
26 Civil Rights against Unlawful Arrest and Seizure of my Person under the Fourteenth Amendment.
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1 I was Falsely Arrested without without Probable Cause outside of their Lawful Jurisdictional
2 Police Power Boundaries of Authority. The Named Dublin Police Officers Never called San
3 Ramon or Contra Costa County for Jurisdictional Permission to Arrest me in San Ramon and
4 Contra Costa County Jurisdiction. Thus, a False Arrest and False Imprisonment.
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6
7 The Dublin City Police Officers must have Known that their Acts, Action, Omission and
8 False Arrest where Clearly in Violation thereof and a Deprivation of my Civil and Constitutional
9 Rights. I Clearly Objected to their Authority and Jurisdiction to Arrest outside Alameda
10 County and City of Dublin Boundaries. Thus a Clearly I established my Constitutional Civil
11 Rights where being Violated and or Deprived. Probable Cause for Arrest for California Vehicle
12 Code or Penal Code Violation Authority does NOT Outside the Alameda County and Dublin City
13 Limits. Thus Seizure of my Person was Unlawful, Unconstitutional and a Deprivation and
14 Violation thereof my Civil and Constitutional Rights to Personal Liberty, to be Free from
15 Restraint and Unlawful Imprisonment and or Arrest. This Right to Freedom from Restraint is
16 Protected beyond the Due Process of Law clause of the Fourteenth Amendment. It Guaranteed
17 by the Fourth, Fifth, Fourteenth, Ninth and the Privilege and Immunities Clause of the Federal
18 Constitution. See: Edwards v. California, 314 U.S. 160, 177, 181 (1941). I have the Inalienable Constitutional
19 and Civil Right to be Free in my Person. See: NEW YORK CITY BD. OF ESTIMATE v. MORRIS, 489 U.S.
20 688 (1989); MASSACHUSETTS BD. OF RETIREMENT v. MURGIA, 427 U.S. 307.
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23 Issue of Probable Cause as its Concerns the Unlawful Seizure of my Vehicle (Private
24 Property). This in Violation and Deprivation of the Fourth Amendment.
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1 I have ⁴Several Witnesses not including myself that the Police Stop took place almost
2 a Half mile within Contra County and the City of San Ramon California. The Stop was
3 outside the County of Alameda and City of Dublin California's Lawful Territorial Boundaries and
4 Jurisdiction. The Argument that I Committed a Traffic Violation in their Presence is Not Valid.
5 At first the Police Officer stated that could not read the Old Original License Plate. It had
6 a April Temporary Sticker in the back Window. The License Plate has a 2009 Current
7 Registration Sticker on it. The ⁵Police Officers said he was Unable to Read my License Plate then,
8 He then stated I believe you have a Stop Light out. This is totally Wrong because I just
9 checked all the Lights: Stop Lights, Turn Indicators and Head Lights just within the last half
10 Hour to make sure everything was working and they where. Thus the old Your Stoplight is
11 Out, Excuse for Probable Cause is Not Valid. It was Lie to Establish Probable Cause. I
12 Demanded that the Police Officer prove to me that my Stop Light was out. They Refused. The
13 Reason they Refused to prove me that Stop Light was out was that it was working. Police
14 Officers are Known Liars under Oath. The Police Officer's Just had to Create a Probable Cause
15 and Excuse for the Unlawful Stop. They had to make up some Excuse for Probable Cause.
16 See: Berkemer v. McCarthy, No. 83-710, decided July 2, 1984. See also Adams v. Williams, 407 U.S. 143, 148 and Terry
17 v. Ohio, 392 U.S. 34. Let Judicial Notice be Taken here that the Police Officer Never Cited me
18 for Stop Light being Out. The Police Officers where actually looking for Michael Swift who
19 Owned that Dodge Pick Up Truck for many years and was Harassed, Stopped without
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27 ⁴Steve Swift, Rick Lincoln, Michael Swift, myself.

28 ⁵Alameda County Sheriff Deputy: Whitthall # 429; A. Grath # 1340, who are contracted with the city of Dublin Police Services.

1 Justification, Searched and Never Charged for any Real Crime. See: (Affidavit from Michael
2 Swift). The Dublin Police Officers even asked Michael Swift what happened to the Dodge Pick
3 up Truck about a week earlier.
4

5 There was No Legitimate Probable Cause for the Stop other then Thinking they where
6 Stopping Michael Swift and to Harass him.
7

8 The Stop took place Clearly outside of City Limits and County of Alameda Jurisdiction.
9 Thus, Acting Outside of Their Lawful Jurisdiction and Police Power Authority from the City
10 of Dublin California. Let Judicial Notice be Taken, here that the City of Dublin City Limits
11 end at the Back Home Fence about 15 Feet before Alcosta Blvd. The Police Stop began over
12 3/8 miles further in Contra Costa County and the City of San Ramon California. Thus, Clearly
13 Establishing a Claim and Cause of Action Under Section 1983. I have Clear Established my
14 Constitutional Right against Unlawful Stops outside of City of Dublin Police Jurisdiction. False
15 Unlawful Arrest and Unlawful Seizure of my Vehicle (Private Property) outside of Lawful
16 Jurisdiction and Police Power Authority. They had to have Known that they where beyond there
17 Lawful Jurisdictional and Police Power and City of Dublin and Alameda County Boundaries. The
18 City of Dublin and ⁶Alameda County Sheriffs have No Jurisdiction whatsoever on Alcosta Blvd.,
19 because it is 15 feet beyond City and County Jurisdictional Limits. Thus the Police Stop and
20 Subsequent Seizure of my Vehicle and Arrest of my Person for Failure to Appear Misdemeanor
21 Warrant was Unlawful, Unreasonable, without and in Violation of Fourth Amendment Probable
22 Cause.
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28 ⁶Alameda County Sheriff Deputies: Whithall # 429; A. Grarth # 1340, who are contracted with the city of Dublin Police Services.

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2 Henig v. Odoroso, C.A. 3 (Pa.) 1967, 385 F.2d 491, certiorari denied 88 S. Ct. 1269, 390 U.S. 1016, 20 L. Ed.2d
3 166, rehearing denied 88 S. Ct. 1814, 391 U.S. 929, 20 L. Ed.2d 671. See, also, Basista v. Weir, C.A. 3 (Pa.)
4 1965, 340 F.2d 74; Baldwin v. Morgan, C.A. Ala.1958, 251 F.2d 780; Geach v. Moynahan, C.A. Ill.1953, 207
5 F.2d 714; Picking v. Pennsylvania R. Co., C.C.A. Pa.1945, 151 F.2d 240, rehearing denied 152 F.2d 753; Nugent
6 v. Sheppard, D.C. Ind.1970, 318 F. Supp. 314;

7 The INALIENABLE Constitutional and Civil Right to be Free from Arrest and Seizure
8 of my Person is beyond the Right to Personal Liberty, it is Guaranteed by the Fourth
9 Amendment as well: Henry v. United States, 361 U.S. 98 (1959); Johnson v. United States, 333 U.S. 10, 16-17
10 (1948); Sibron v. New York, 392 U.S. 40, 62-63 (1968).

11 Thus, I could Not have committed a Misdemeanor in the Deputy Sheriff's sight, to
12 Establish Probable Cause. Thus, establishing False and Unlawful Arrest in Excess of Lawful
13 Authority and Jurisdiction and Creating a Claim and Cause of Action under the Color of State
14 Law (Section 1983) See: Id. (quoting Terry v. Ohio, 392 U.S. 1, 19 n.16 (1968)).

15
16 The City of Dublin Police Services and Alameda County Sheriffs Department must Except
17 Responsibility and Liability also because they have Contracted their Police Services and Liability
18 to Suit. The Respondent Superior Doctrine is Not being Applied here because of Contractual
19 Obligation and Liability by the City of Dublin Police Services and Alameda County Sheriffs
20 Department.

21
22 **FAILURE OF THE CITY OF DUBLIN AND ALAMEDA COUNTY TO**
23 **RESPOND TO AND INVESTIGATE FALSE ARREST AND IMPRISONMENT:**

24 The City of Dublin Police Services and the Alameda County Sheriffs Department Failed
25 to Respond to and Investigate their Named Unlawful Police Actions and thus, become Liable
26 as Co-Conspirators to those Acts. The Named Municipal Corporations have a Lawful Duty and
27

1 of Alameda and City of Dublin. They at the Very least share the Liability through a Conspiracy
2 to Violate and Deprivation of my Civil and Constitutional Rights. This is Not a Suit under
3 Respondent Superior Doctrine. It is a Suit against a Co-Conspirator who is Responsible for the
4 Training and Authorization of their Individual ²Police Officers and must accept Municipal
5 Responsibility for those Action of their Officers, Agents and others. RESPONDENT SUPERIOR
6 Must Not be Allowed to be Used as Defense against Liability because of Contractual Agreement
7 for Liability between Alameda County and City of Dublin California. The Conspiracy Cause of
8 Action by Contractual Agreement is Created. The County of Alameda and City of Dublin are
9 in Authority over the Training and Actions by their ²Police Officers. See: United States v. Jones,
10 176 F.2d 278 (9th Cir. 1949). See also: Baker v. Deschutes County, 498 P.2d 803 (Or. App. 1972); Levin v. Marsh, 644
11 F.2d 1378 (9th Cir. 1981).

12 The Unlawful Holding (Seizing) of my Vehicle (Private Property) in violation of the
13 Fourth Amendment was Authorized and Endorsed by the County of Alameda and City of Dublin
14 California. This Practice of Holding (Seizing in Violation of Fourth and Fourteenth Amendments)
15 Vehicles for (30) Days without offering Lawful Remedy Due Process and Judicial Determination
16 is Authorized under the City and County's Authority. By Endorsing and Authorizing this Practice,
17 Alameda County and the City of Dublin California, by Contractual Agreement, must Accept Co-
18 Responsibility for the Practice. They are Transformed from Respondent Superior to Co-Conspirator.

19 ⁷Sheriff Deputies Contracted by Alameda County to Dublin Police Services by Contractual agreement.

20 ⁸Sheriff Deputies Contracted by Alameda County to Dublin Police Services by Contractual agreement.

1 Legal Responsibility to Respond to and Investigate all Allegations of Unlawful Police Acts,
2 Actions, Conduct, Arrest, and all other Police Practices done under their Authority. This is Not
3 Respondent Superior Doctrine Theory. It is the Theory and Doctrine of Municipal Authority being
4 Used for the Unlawful acts. This Failure to Respond to and Investigate Unlawful Police Action
5 or Acts, Makes the Alameda County, City of Dublin California, Central Towing and Transporting
6 Liable for their Employees acts as Co-Conspirators to those Unlawful Acts.
7

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9 **(# 3.) - SEIZING OF VEHICLE PROPERTY IN VIOLATION OF THE FOURTH
10 AND FOURTEENTH AMENDMENTS UNLAWFUL HOLD FOR THIRTY
11 DAYS WITHOUT FOURTH AMENDMENT WARRANT.**

12 The Seizing of my Vehicle (Property) without Probable Cause and or a Fourth
13 Amendment Warrant, without Lawful Jurisdiction and Authority Clearly outside of City of Dublin
14 and County of Alameda Boundaries. I did OBJECT 3 times to the Offer (Dublin Police Officer's
15 Named) for the Warrant-less Arrest and Seizure of my Person and Vehicle Property In the
16 Jurisdiction and Authority of Another County and City's Jurisdiction. Also for Lack of
17 Probable Cause for Arrest and Seizure of my Person and Vehicle Property.
18

19 The Fourth Amendment provides that:

20 "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures,
21 shall not be violated"

22 See: Bell v. Hood, 327 U.S., at 684 (footnote omitted); see Bemis Bros. Bag Co. v. United States, 289 U.S. 28,
23 36 (1933) (Cardozo, J.); The Western Maid, 257 U.S. 419, 433 (1922) (Holmes, J.). See: Bivens, 403 U.S. 388, 393.

24
25 **(UNLAWFUL (30) DAY HOLD ON MY VEHICLE PROPERTY)**

26 The County of Alameda and the City of Dublin Governments Must Accept Responsibility for
27 the acts of their Officer's Agents and others acting in the Name and Authority of the County
28

1 Thus, also Liable.

2 The City of Dublin California, as a Municipal Corporation, is a Person Under the Color
3 of State Law. The County of Alameda, as a Municipal Corporation, is a Person Under the
4 Color of State Law. They are thus, Co-Conspirators in a Conspiracy to Violate my Fourth and
5 Fourteenth Amendment Right Protection of Private Property. See: Reld v. Kaye, C.A.4 (N.C.) 1989, 885
6 F.2d 129. They are Not being Sued as Respondent Superior, but as Co-Conspirators because they
7 Authorized and Endorsed (30) day Hold (Seizure) of my Private Vehicle. It is the County's and
8 City's Policy to Hold (Seize) Vehicle's for (30) days in Violation of the Fourth and Fourteenth
9 Amendment Protection.

10 "The Fourth Amendment is Not the beginning of the end to Constitutional Inquiry whenever a Seizure occurs."

11 It is true, of course, that the Fourth Amendment applies to searches and seizures in the civil context, See Camara
12 v. Municipal Court of San Francisco, 387 U.S. 623 (1967) In: UNITED STATES v. JAMES DANIEL GOOD REAL
13 PROPERTY, 510 U.S. 43, Id, at 50 (1993)

14 Thus, the Fourth Amendment does Apply, and it Requires a Judicial Determination and
15 Not a Mere Policeman, City or County Official's Discretion.

16 Mathews, 424 U.S. at 335. The particular deprivation with which we are concerned here is the City's post-seizure,
17 pre-judgment retention of plaintiffs' vehicles. Krimstock, 2000 WL 1702035, at 36-37.

18 The Fourth and Fourteenth Amendment Protections are Not bypassed, Overruled by or
19 Secondary to California State Law. "All laws repugnant to the Constitution are null and Void." Marbury v. Madison,
20 5 U.S. (2 Cranch) 137, 174, 176, (1803). This also Violates the Federal Constitutions Supremacy Clause
21 which States:

22 Article VI of the Constitution provides that the laws of the United States shall be the supreme Law of the Land; . .
23 . any Thing in the Constitution or Laws of any state to the Contrary notwithstanding. Art. VI, cl. 2. Thus, since our
24 decision in M'Culloch v. Maryland, 4 Wheat. 316, 427 (1819), it has been settled that state law that conflicts with
25

1 federal law is "without effect." Marviand v. Louisiana, 451 U.S. 725, 746 (1981).

2 Thus, the County and City Governments had to have Known this. This is Clearly
3 Established Law and Principle of Law, since the Founding of the Federal Constitution.

4 Thus, this Policy Authorized and Endorsed by City and County Governments is Not Valid.

5 The City of Dublin Police Services and Alameda County Sheriffs Department must Except
6 Responsibility and Liability also because they have Contracted their Police Services and Liability
7 to Suit. The Respondent Superior Doctrine is Not being Applied here because of Contractual
8 Obligation and Liability by the City of Dublin Police Services and Alameda County Sheriffs
9 Department.

10 Let Judicial Notice be taken, here that Central Towing and Transporting (Towing
11 Agency) Seized, Towed and Stored my Vehicle and is a Named Defendant and Co-Conspirator.

12
13 **FAILURE OF THE CITY OF DUBLIN AND ALAMEDA COUNTY TO**
14 **RESPOND TO AND INVESTIGATE UNLAWFUL TOW AND SEIZING MY**
15 **VEHICLE FOR (30) DAYS:**

16 The City of Dublin Police Services and the Alameda County Sheriffs Department Failed
17 to Respond to and Investigate their Named Unlawful Police Actions and thus, become Liable
18 as Co-Conspirators to those Acts. The Named Municipal Corporations have a Lawful Duty and
19 Legal Responsibility to Respond to and Investigate all Allegations of Unlawful Police Acts,
20 Actions, Conduct, Arrest, and all other Police Practices done under their Authority. This is Not
21 Respondent Superior Doctrine Theory. It is the Theory and Doctrine of Municipal Authority being
22 Used for the Unlawful acts. This Failure to Respond to and Investigate Unlawful Police Action
23 or Acts, Makes the Alameda County, City of Dublin California, Central Towing and Transporting
24
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28

1 Liable for their Employees acts as Co-Conspirators to those Unlawful Acts.

2 **(# 4.) - ACTION UNDER THE COLOR OF STATE LAW.**

3 The County of Alameda and City of Dublin California have Clearly acted Under the
4 Color of State Law and Authorized its ²Police Officers to Hold (Seize) Vehicles for (30) Days
5 in Violation of Fourth and Fourteenth Amendments. They Acted as Co-Conspirators Under the
6 Color of California State Law in Seizing my Vehicle (Private Property). The Named Municipal
7 Governments are Clearly Authorized and Endorsed plus Encouraged the Unlawful Deprivation of
8 my Civil and Constitutional Rights. I have Clearly Established a Violation, Deprivation of my
9 Constitutional and Civil Rights Under the Color of State Law and City and County
10 Authorization. They Clearly Acted with full Wanton Intent, Knowledge, Deliberately to Violate,
11 Interfere with and Deny my Constitutional and Civil Right Against Unlawful Seizures of my
12 Private Property (Vehicle), and in violation of Absolute Due Process Rights. I Clearly Established
13 my Constitutional and Civil Rights I have Served the Named City of Dublin with Several
14 Notices and Demand for my Truck back. They where Served (5) Notices with My Demands
15 for Rights which included Probable Cause Hearing, Forfeiture Hearing with Jury Trial and Notice,
16 that Tow Hearing does Not Satisfy Due Process, under Fourth and Fourteenth Amendments. I also
17 Demanded that they Return my Stolen Property. Instead I was told at the Tow Hearing that
18 (30) Day Hold (Seizure) of my Vehicle was Valid and I had No Right to a Remedy for the
19 the Unlawful Seizure of my Vehicle for (30) Days. This Violated the Fourth, Fourteenth, and
20 it becomes an Excessive Fine without Due Process of Law. It also creates a Double Jeopardy
21
22
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27

28 ²Sheriff Deputies Contracted by Alameda County to Dublin Police Services by Contractual agreement.

1 Penalty against me without Due Process of Law. The State of California does Not Offer me
2 any Remedy whatsoever. The City of Dublin and Central Towing and Transporting Does Not
3 offer me any Remedy whatsoever to Challenge the Probable Cause, Forfeiture Process, the Lawful
4 Jurisdiction to Violate the Fourth Amendment Seizure Warrant Requirement. I am thus, left with
5 No Remedy At-Law or in Equity. This Constitutes a Violation and Deprivation of my Civil
6 Rights under the Color of State Law. The Named Defendants have Willful Disregard and Intent
7 on Malice. They have Acted Deliberately, with wanton, Knowing Denial and Violation of my
8 Civil and Constitutional Rights. They acted in Excess of Their Authority and Jurisdiction.

11 Henig v. Odorioso, C.A. 3 (Pa.) 1967, 385 F.2d 491, certiorari denied 88 S. Ct. 1269, 390 U.S. 1016, 20 L.Ed.2d
12 166, rehearing denied 88 S. Ct. 1814, 391 U.S. 929, 20 L. Ed.2d 671. See, also, Basista v. Weir, C.A. 3 (Pa.)
13 1965, 340 F.2d 74; Baldwin v. Morgan, C.A. Ala.1958, 251 F.2d 780; Geach v. Moynahan, C.A. Ill.1953, 207 F.2d
14 714; Picking v. Pennsylvania R. Co., C.C.A. Pa.1945, 151 F.2d 240, rehearing denied 152 F.2d 753; Nugent v.
Sheppard, D.C. Ind.1970, 318 F. Supp. 314; Gulbertson v. Leland, C.A. 9 (Ariz.) 1975, 528 F.2d 426.

15 Let Judicial Notice be taken here that the Named Defendants by Contractual agreement
16 Acted pursuant to a Conspiracy in Excess and Misuse of Police Powers in False Arrest and
17 Imprisonment; Unlawful and Wrongful Tow and Seizing of my Vehicle Property.

19 A § 1983 conspiracy claim may arise when a private actor conspires with a state actor to deprive a person of a con-
stitutional right under color of state law. Dixon v. City of Lawton, Okl., CA10 (Ok.) 1990, 898 F.2d 1443.

21 Thus, Creating and Establishing Causes of Actions and Claims of False Arrest and
22 Imprisonment; Unlawful Seizure of my Person Fourth Amendment; Unlawful and Wrongful tow
23 and Seizing of my Vehicle Property under Fourth and Fourteenth Amendments; Cruel and
24 Unusual Punishment all under the Color of State Law Section 1983.

26 **FALSE ARREST**: False Arrest is a Cause of Action under Section 1983, Action Under
27 the Color of State Law. **False Imprisonment** is another Separate Aspect of False Arrested which
28

1 is Considered another Different Cause of Action Under Section 1983. "...arrest made maliciously and
2 without probable cause"; Pierson v. Ray, 386 U.S. 547, 555 (1967), In: WYATT v. COLE, 504 U.S. 158 (1992). Thus,
3 a Cause of Action under Section 1983 is Created?
4

5 **SEIZING HOLDING VEHICLE FOR (30) DAYS WITHOUT SEIZURE WARRANT AND IN**
6 **DENIAL OF DUE PROCESS OF LAW:**

7 The Holding of my Vehicle (Private Property) without a Fourth Amendment Seizure
8 Warrant is an Action Under the Color and Guise of State Law (Section 1983). The Cities have
9 an Unlawful Habit of Holding, (Seizing) Private Vehicles Without a Fourth Amendment Seizure
10 Warrant.
11

12 It is true, of course, that the Fourth Amendment applies to searches and seizures in the civil context. See Camara
13 v. Municipal Court of San Francisco, 387 U.S. 523 (1967) In: UNITED STATES v. JAMES DANIEL GOOD REAL
14 PROPERTY, 510 U.S. 43, Id, at 50 (1993)

15 Thus, establishing a Cause of Action under the Color of State Law Section 1983.

16 **NO REMEDY FOR HOLDING (SEIZING) MY VEHICLE FOR (30) DAYS. DENIAL OF DUE**
17 **PROCESS OF LAW:**

18 There is No Remedy for Unlawful Seizing and Holding of my Private Vehicle. I am
19 Thus, I am being Denied Due Process of Law under the Fourteenth Amendment. No City Policy,
20 or State Law Authority can Authorize a Denial of the Fourteenth Amendment Right to
21 Heightened Due Process Protection of Private Property. It is beyond the Authority of a City
22 to Unconstitutionally Act in Violation of the Fourteenth Amendment. The County of Alameda
23 and the City of Dublin cannot Authorize an Action that Violates the Federal Constitution. See:
24 Levin v. Marsh, 644 F.2d 1378 (9th Cir. 1981). See also: Logan v. Zimmerman Brush Co., 455 U.S. 422, 435-36 (1982);
25 Parrott v. Taylor, 451 U.S. 527 (1981). This Violates a Constitutional Rule and Federal Maxim that
26
27
28

1 everyone will have a Remedy for Wrong Done. Taking, Holding, Seizing my Vehicle without
2 allowing me Notice and Opportunity to Defend Violates my Federal Civil and Constitutional
3 Rights. Thus, Creation of Cause of Action for Denial of Heightened Due Process Protection of
4 the Right to Property under the Color of State Law (Section 1983).
5

6 **CONSPIRACY UNDER THE COLOR OF STATE LAW:**

7 The Named Defendants did act Pursuant to a Conspiracy under the Color of State Law,
8 in Violation of Section 1983. The Deprivation and Violation of Civil Rights pursuant to a
9 Conspiracy creates a Cause of Action under Section 1983.
10

11 A § 1983 conspiracy claim may arise when a private actor conspires with a state actor to deprive a person of a con-
12 stitutional right under color of state law. Dixon v. City of Lawton, Okl., CA10 (Okla.) 1990, 898 F.2d 1443.

13 The County of Alameda and City of Dublin and other Named Defendants did act
14 Pursuant to a Conspiracy to Deny, Deprive and Violate my Constitutional and Civil Rights
15 Under the Color and Guise of State Law. Thus, Establishment of a Cause of Action under
16 Section 1983.
17

18 Let Judicial Notice be Taken, here that this Section 1983 Suit is Completely Different
19 from the other Actions and Causes of Action Filed against other Named Defendants.
20

21 **FAILURE OF THE CITY OF DUBLIN AND ALAMEDA COUNTY TO**
22 **RESPOND TO AND INVESTIGATE FALSE ARREST AND IMPRISONMENT:**

23 The City of Dublin Police Services and the Alameda County Sheriffs Department Failed
24 to Respond to and Investigate their Named Unlawful Police Actions and thus, become Liable
25 as Co-Conspirators to those Acts. The Named Municipal Corporations have a Lawful Duty and
26 Legal Responsibility to Respond to and Investigate all Allegations of Unlawful Police Acts,
27
28

1 Actions, Conduct, Arrest, and all other Police Practices done under their Authority. This is Not
2 Respondent Superior Doctrine Theory. It is the Theory and Doctrine of Municipal Authority being
3 Used for the Unlawful acts. This Failure to Respond to and Investigate Unlawful Police Action
4 or Acts, Makes the Alameda County, City of Dublin California, Central Towing and Transporting
5 Liable for their Employees acts as Co-Conspirators to those Unlawful Acts.

7 **(# 5.) - DENIAL OF FORFEITURE HEARING.**

8
9 My Vehicle Property was sold and I was Denied a Forfeiture Hearing. Let Judicial
10 Notice be Taken here that I made Several Demands for a Forfeiture Hearing with the City of
11 Dublin Police Services and Tow Agency. I was effectively Denied this Due Process of Law
12 Right to Forfeiture Hearing of Vehicle Property and the Right to Just Compensation See:

13
14 CALERO-TOLEDO v. PEARSON YACHT LEASING CO., 416 U.S. 663 (1974). See also: (People v. One 1941 Ford 8
15 Stake Truck, 26 Cal.2d 503 [159 P.2d 641]; People v. One 1941 Chrysler Tudor, supra; People v. One 1941 Buick Sport
16 Coupe, supra.

17
18 The Right to a Forfeiture Hearing and Jury Trial is a Common Law Right. See: People
19 v. One 1941 Chevrolet Coupe, 37 Cal.2d 283. The Right to a Post Forfeiture Hearing, Jury Trial cannot
20 be defeated or watered down out of Existence by the California Legislature. This Forfeiture
21 Hearing Right cannot be Denied because of a Police Power Regulation. See: People v. One 1941
22 Chevrolet Coupe, 37 Cal.2d 283. The Absolute Right to Trial by Jury cannot be defeated by
23 California Legislature:

24
25
26 "Colon v. Utek, 13 App. Div. 195, 202 [43 N.Y.S. 364, 369]; State v. 1920 Studebaker, 120 Ore. 254 [251 P. 701,
27 50 A.L.R. 81]. The introduction of a new subject into a class renders it amenable to its general rules, not to its
28 exceptions. "Wood v. City of Brooklyn, 14 Barb. 425, 432; Cooley, Constitutional Limitations, 8th ed. vol. I, pp.
668- 674. Cf. Moore v. Purse Seine Net, 18 Cal.2d 835, 837 [118 P.2d 1]. People v. One 1941 Chevrolet Coupe,

37 Cal.2d 2; Union Insurance Co. v. United States, 73 U.S. 759, 764-766 [18 L. Ed. 879]; Armstrong's Foundry, 73 U.S. 766, 769 [18 L. Ed. 822]; United States v. Yamoto, 50 F.2d 599, 600; see, also, Dobbins v. United States, 95 U.S. 395, 404 [24 L. Ed. 637]; Goldsmith, Jr.-Grant Co. v. United States, 254 U.S. 505, 509 [41 S. Ct. 189, 65 L. Ed. 376]; Kent's Commentaries 375-376.; People v. One 1941 Chevrolet Coupe, 37 Cal.2d 283.

Thus, Securing and Protecting my Fourteenth Amendment Inalienable Right to a Forfeiture Hearing as a Guaranteed Right to Due Process of Law. This is Not just a Right to Due Process of Law, but an Unalienable and Inalienable Right.

Thus, placing my Vehicle Property beyond Legislative Conditions and Prohibitions that allow the Police Powers to sell Forfeited Property without a Full Jury Trial in a Forfeiture Hearing.

The City of Dublin Police Services and ¹⁰Named Towing Agency have to Pay Just Compensation for my Vehicle Property that was taken from me Under the Color and Guise of Police Power Regulation (California Vehicle Code). Forfeiture of this Vehicle Property without being Afforded and or being Denied the Right to a Forfeiture Hearing is Denial of Protection of the Right to Property and or taking of Private Property without Due Process of Law. The Very Fundamental Principle and Structure of the Right to Property is the Protection of it by the Constitution and the Laws of the United States. It is the Duty and Obligation of this Court Mandated by the Federal Constitution to the Protection of Property. The City of Dublin cannot be allowed to Take Private Property without Justification, Forfeiture Hearing and Just Compensation. Any other Outcome is a Violation of the Principles of Liberty, Freedom and Justice for All.

¹⁰ Central Towing and Transporting, (Towing Agency), Named Defendant.

Failure of the City of Dublin and Central Towing and Transporting to Provide a Post Forfeiture Hearing and to Subsequently sell my Private Property (Vehicle) without Due Process of Law (Forfeiture Hearing) Jury Trial creates a Cause of Action under Section 1983. See: Desert Outdoor Advertising, Inc., v. City of Moreno Valley, CA 9, (Cal.) 1996, 103 F.3d 814, Cert. Den., 522 U.S. 912, 118 S. Ct. 294, 139 L. Ed. 2d 330.

Thus, firmly Establishing a Cause of Action under Section 1983 for Failure taking and Selling of Private Property without due Process of Law (Forfeiture Jury Trial Hearing).

FOURTH AMENDMENT VIOLATION:

The Unlawful Seizure and Lien Sale of my Vehicle without Fourth Amendment Seizure Warrant Violates that Constitutional Protection and Requirement.

It is true, of course, that the *Fourth Amendment* applies to searches and seizures in the civil context, See Camara v. Municipal Court of San Francisco, 387 U.S. 523 (1967), In: UNITED STATES v. JAMES DANIEL GOOD REAL PROPERTY, 510 U.S. 43, Id, at 50 (1993)

This Violates the Very fundamental Principles of Seizing Private Property in Violation of the Fourth Amendment. This is in essence Stealing of Private Property under the Color and Guise of State Law and Police Power Regulation, in Violation of the Fourth and Fourteenth Amendments.

(IN CONCLUSION)

In Conclusion I Move the Court to Grant the Following Remedy in Damages and Punitive Damages.

DAMAGES FROM CITY OF DUBLIN FOR FALSE IMPRISONMENT AND UNLAWFULLY SEIZING AND TOWING MY VEHICLE AND DENIAL OF THE RIGHT TO A FORFEITURE HEARING AND CONSPIRACY: \$ 2,500,000.00 = TWO MILLION FIVE HUNDRED THOUSAND DOLLARS.

1 DAMAGES FROM THE ALAMEDA COUNTY SHERIFF'S DEPARTMENT FOR FALSE
2 IMPRISONMENT AND CONSPIRACY \$ 250,000.00 = TWO HUNDRED FIFTY THOUSAND DOLLARS.

3 DAMAGES FROM CENTRAL TOWING AND TRANSPORTING FOR FORFEITURE WITHOUT
4 FORFEITURE HEARING AND CONSPIRACY. \$ 250,000.00 TWO HUNDRED FIFTY THOUSAND
5 DOLLARS. PLUS FOR FORFEITURE OF MY VEHICLE LOSS OF MY PROPERTY \$ 10,000.00
= TEN THOUSAND DOLLARS.

6 I ALSO SEEK \$ 1,500,000.00 ONE MILLION FIVE HUNDRED THOUSAND DOLLARS FROM EACH
7 NAMED DEFENDANT FOR PUNITIVE DAMAGES AND I AVAIL MYSELF TO ANY OTHER
8 REMEDIES OF THIS COURT THAT IT DEEMS NECESSARY AND PROPER.

9 I SEEK \$ 25,000.00 TWENTY FIVE THOUSAND DOLLARS FOR ACTUAL LOSS OF
10 VEHICLE VALUE AND USE THEREOF.

11 I MOVE THE COURT TO GRANT ALL DAMAGES DEMANDED FOR IN THE
12 COMPLAINT.

13 I WILLIAM J. WHITSITT, William J. Whitsitt THIS THE 16th DAY OF APRIL 2008, DO HEREBY DECLARE AND
14 AFFIRM THAT ALL THE ABOVE FACTS ARE TRUE AND CORRECT UNDER THE PENALTY OF LAW.

15
16
17 LET JUDICIAL NOTICE BE TAKEN HERE THAT A JURY TRIAL IS WAIVED AND I
18 MASTER OF THIS CASE AND I WILL ALONE WILL DECIDE WHICH LAW IT WILL
19 PROCEED UNDER. SEE: FAIR, THE, V. KOHLER DIE & SPECIALTY CO., 228 U.S. 22 (1913); FRANCHISE TAX BD.
V. LABORERS VACATION TRUST, 463 U.S. 1 (1983); : Merrell Dow Pharmaceuticals, Inc. v. Thompson, 478 U.S. 804, 809
20 , n. 6 (1986); Caterpillar Inc. v. Williams, 482 U.S. 386, 392 (1987).

21
22 RESPECTFULLY SUBMITTED

23 William J. Whitsitt
24 WILLIAM J. WHITSITT

25 DATED: April 17, 2008
26
27
28

DEFENDANTS CONTACT INFORMATION

DUBLIN POLICE SERVICES

100 Civic Plaza
Dublin, CA 94568
(925) 833-6670
Fax (925) 828-2893

CENTRAL TOWING AND TRANSPORT Tow Agency

FREMONT - Main Office

36849 San Pedro Drive
Fremont, CA 94536
(510) 797 - 5660

Alameda County Sheriff's Office

Attn: Kelly Martinez - Civil

Litigation

Internal Affairs Section

1401 Lakeside Drive, 7th Floor
Oakland, California, 94612

TELEPHONE

Personnel complaints (day)	(510) 208-9800
Personnel Complaints (night)	(510) 667-7721
Emergency/Hearing Impaired	(510) 667-7721

FAX:

1-510-272-3796

Counts Original

1 WILLIAM J. WHITSITT
 2 335 W. CLOVER ROAD
 3 TRACY, CA 95376
 4 (209) 221-1405
 5 WHITSITTW@GMAIL.COM

6 IN PROPRIA PERSONA

7 IN UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA SAN
 8 FRANCISCO

9 WILLIAM J. WHITSITT
 10 (PLAINTIFF)

11 -----VS-----

12 Sgt. George Lytle Badge # 761

13 Central Towing & Transport -TOWING STORAGE CO.

14 COUNTY OF ALAMEDA

15 City of Dublin Police Services

16 TOW OPERATOR - CENTRAL TOWING & TRANSPORTING.

17 10 UNNAMED DEFENDANTS
 18 (DEFENDANTS)
 19

E-filing

FILED

APR - 3 2008

RICHARD W. WIEKING
 CLERK, U.S. DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 OAKLAND

IFP
 NP
 99
 ADR

C08-01802 JSW

**COMPLAINT SECTION 1983
 UNLAWFUL AND WRONGFUL
 SEIZING OF MY VEHICLE.
 UNDER COLOR OF STATE LAW.**

21 Comes Now, William J. Whitsitt, a Natural Born Citizen of the United States exercising
 22 the Full Rights of Sovereignty as We The People. I come to this Court Seeking Full
 23 Redress and A Remedy At Law. For Sovereignty of We The People See: CHISHOLM v. GEORGIA
 24 (US), 2 Dall 419, 454, 1 L Ed 440, 455 (1793) pp 471-472; BOYD v. STATE OF NEBRASKA, 143 U.S. 135 at 158 (1892)
 25 2 Dall 419. I come to this Federal District Court to Seek Remedy for a Towing and Seizing
 26 My Private Property under the Color and Guise of State Law, in Violation of Due Process of
 27
 28

SECTION 1983 COMPLAINT - GEORGE LYTLE AND CITY OF DUBLIN

Page 1 of 28

18

1 Law. My Private Property was Towed and Seized from the Private Parking area and Private
2 Property. The Vehicle Code has NO Jurisdiction upon Private Property. Thus Arrest and Towing
3 of Vehicle from Private Property Unlawful. I was Arrested on Private Property for a
4 Misdemeanor Traffic Violation.

6 **(JURISDICTION)**

7 The Venue is Correct, the City of Dublin is in Territorial Limits and Jurisdiction of the
8 Northern District of California.

9 The Subject Matter is Correct, because Section 1983 Grants Statutory Jurisdiction by Act
10 of Congress to the U.S. District Court. ¹Original and Federal Question Jurisdiction.

11 I have Standing to Sue because my Federal Rights where Denied under the Color of
12 State Law.

13 "suit arises under the law that creates the cause of action." Id., at 8-9, quoting: American Well Works Co. v.
14 Layne & Bowler Co., 241 U.S. 257, 260 (1916).

15 See: § 1343. Civil rights and elective franchise

16 Under the Color and Guise of State Law and City Ordinance the Named Police Officer did
17 Unlawfully, Wrongfully Seize my Person (Arrest), Seize and Tow my Vehicle (Property) from
18 Private Property.

19 Misuse of power, possessed by virtue of state law and made possible only because wrongdoer is clothed with
20 authority of state law, is action taken "under color of any statute", within this section. Henig v. Odorioso, C.A. 3 (Pa.)
21 1967, 385 F.2d 491, certiorari denied 88 S.Ct. 1269, 390 U.S. 1016, 20 L. Ed.2d 166, rehearing denied 88 S.
22 Ct. 1814, 391 U.S. 929, 20 L. Ed.2d 671. See, also, Basista v. Weir, C.A. 3 (Pa.) 1965, 340 F.2d 74; Baldwin v.
23 Morgan, C.A. Ala.1958, 251 F.2d 780; Geach v. Moynahan, C.A.III.1953, 207 F.2d 714; Pickling v. Pennsylvania
24 R. Co., C.C.A.Pa.1945, 151 F.2d 240, rehearing denied 152 F.2d 753; Nugent v. Sheppard, D.C. Ind.1970, 318
25 F. Supp. 31

26
27
28 ¹28 U.S.C. Section 1343 (3)

Misuse of Power Under the Color of State Law (California Vehicle Code) Qualifies
Section 1983 Civil Rights Jurisdiction.

**(# 1.) - SEIZING OF VEHICLE PROPERTY IN VIOLATION OF
THE FOURTH AND FOURTEENTH AMENDMENTS AND
HOLDING FOR (30) DAYS.**

The Police Officer Named Sargent George Lytle Badge No 761 and or some Other
Unnamed Police Officer Ordered my Vehicle Under the Color and Guise of State Law and
Local Ordinance to be Held Unlawfully for (30) Days. The Named Police Officer who is
In Charge of Vehicles and Releasing (Private Property) in Violation of the Fourth Amendment
and Due Process Clause of the Fourteenth Amendment Federal Constitution. See: KRIMSTOCK
v. SAFIR, Docket No. 00-9488 (Second Cir. 2000):

Plaintiffs in this action essentially seek an early opportunity to test the City's likelihood of success on the merits of the forfeiture action, or what the Supreme Court has termed the "probable validity" of continued deprivation of a claimant's property during the pendency of legal proceedings. Cf. Comm'r v. Shapiro, 424 U.S. 614, 629 (1976) ("[A]t least where irreparable injury may result from a deprivation of property pending final adjudication of the rights of the parties, the Due Process Clause requires that the party whose property is taken be given an opportunity for some kind of predeprivation or prompt post-deprivation hearing at which some showing of the probable validity of the deprivation must be made."); Fuentes v. Shevin, 407 U.S. 67, 97 (1972) ("Since the essential reason for the requirement of a prior hearing is to prevent unfair and mistaken deprivations of property, . . . It is axiomatic that the hearing must provide a real test. '(D)ue process is afforded only by the kinds of "notice" and "hearing" that are aimed at establishing the validity, or at least the probable validity, of the underlying claim against the alleged debtor before he can be deprived of his property.'" (quoting: Snladach v. Family Fin. Corp., 395 U.S. 337, 343 (1969) (Harlan, J., concurring)).

The Fourth Amendment Requires a Probable Cause Hearing in Front of State Court Judge
who has General Jurisdiction. The Named Police Officer did state to me that he was Executing
a Civil Seizure of My Vehicle (Private Property). The Civil Law does Not Transcend the
Fourth Amendment against Search and Seizure of Private Property. See: UNITED STATES v. JAMES

1 DANIEL GOOD REAL PROPERTY, 510 U.S. 43, Id, at 50 (1993). Which states:

2 "The Fourth Amendment is Not the beginning of the end to Constitutional Inquiry whenever a Seizure occurs."

3
4 It is true, of course, that the *Fourth Amendment applies to searches and seizures in the civil context*, See *Camara*
5 *v. Municipal Court of San Francisco*, 387 U.S. 523 (1967) in: UNITED STATES v. JAMES DANIEL GOOD REAL
6 PROPERTY, 510 U.S. 43, Id, at 50 (1993)

7 Thus, making the Holding of my Vehicle without a Fourth Amendment Seizure Warrant
8 Unlawful and Unconstitutionally Violative of the Fourth Amendment.

9 Let this Court take Notice that I did Serve Several Notices of Warning and Demand
10 for my Property to be Returned. See: (Exhibits A, B, C, D, E). I gave full Notice that the Hold
11 upon my Vehicle was Unlawful, in Violation of the Fourth Amendment and in Violation of
12 the Right to Heightened Due Process Protection. I further stated that a (30) Day Hold upon
13 Vehicle (Private Property) Created a Hardship and Cruel Punishment and it was a Double
14 Jeopardy Punishment. I also stated my Financial Problems and Hardship, that a (30) Hold which
15 is Unlawful on it Face would in Reality be a Forfeiture under the Color of State Law.
16 Because I would be Unable to pay the Towing, Storage Fees of well over \$1500.00. Let
17 Further Notice be taken, here that I gave them Full Notice and Clearly Established My
18 Constitutional and Civil Right. I fully Established that a Simple Tow Hearing in front of Police
19 Tow Hearing Officer does Satisfy Due Process and Fourth Amendment Seizure of my Vehicle
20 Violation. I have Claimed Hardship and Irreparable Harm and Severe Financial Hardship with
21 the Dublin Police Services. See: (Exhibits A, B, C, D).

22
23 **(#1-A) - (FOURTEENTH AMENDMENT HEIGHTENED DUE PROCESS**
24 **FAILURE)**
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1 Taking Stealing under the Color of State Law in Violation of the Fourth Amendment
2 which lays an absolute Barrier against Unlawful Seizures. The Name Police Officer acted without
3 the Constraint of Administrative Adjudication. He Ordered my Vehicle Held for (30) Days
4 without Notice and Opportunity to Defend. The Statute Offers No Remedy accept that I pay
5 The \$1500 that I am Unable to afford. Then sue for the Car back or Take a Trover Action
6 In Personam which is Speculative at best and that would take perhaps years to get a Remedy.
7 By that time my Vehicle would have been sold. My 1971 Dodge Power wagon is Extremely
8 Rare and almost one of Kind. It almost Priceless because it has a Granny 4 Speed and that
9 is almost one of a Kind. There are only about 50 or less that are in Running Shape. Thus,
10 the Named Defendants and the State of California has Failed provide a Remedy. The Named
11 Defendants must have known its Value. Thus I am left with No Due Process of Law to
12 Protect my Property (Vehicle).

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17 "executive urgency," the Court has provided the examples of summary seizures during wartime, seizures of
18 contaminated food, and, formerly, the collection of taxes when the very existence of the government depended upon
19 them. See *Id.* at 59-60. To take one example, the Court allowed the seizure, without prior judicial process, of
20 forty-seven barrels of poultry from a Chicago food storage warehouse after city inspectors determined they were
21 "putrid, decayed, poisonous, or infected in such a manner as to render it unsafe or unwholesome for human food."
22 N. Am. Cold Storage Co v. City of Chicago, 211 U.S. 306, 308 (1908). The threat to the public was immediate, and
23 the spoiled poultry, like contraband, was unlikely to be used for some other legitimate purpose. Motor vehicles, in
24 contrast, present no such threat and maintain their usefulness. Cf. Austin v. United States, 509 U.S. 602, 621
25 (1993) ("There is nothing even remotely criminal in possessing an automobile.") (quoting One 1958 Plymouth
26 Sedan v. Pennsylvania, 380 U.S. 693 (1965)). In James Daniel Good Real Property, for example, the Supreme Court
27 found that enforcement of the drug forfeiture laws did not present "a plausible claim of urgency" strong enough to
28 dispense with normal due process guarantees. James Daniel Good Real Prop., 510 U.S. at 61.

29 The Defense that the Named Defendant will submit will likely be Public Concern and
30 Safety of the Public or Public Interest. I Pose No Public Threat like the Defendants will try
31 Prove. I pose Public Risk. The Defendants will attempt to show I am Criminal because I was

1 Driving while my So Called License Privilege was Suspended. What the Defendants don't know
2 is I have Demanded a Suspension Hearing 14 times with the California Department of Motor
3 Vehicle Licensing Division. If a Probable Cause Hearing as is Required by the Fourth
4 Amendment was held they would have known that. My License would Not be Suspended. I was
5 Not afforded a chance to present this Evidence which would Exonerate me. The Named
6 Defendants do want this to happen because they want to Take Citizen's Property in violation
7 of the Fourth Amendment and Heightened Due Process Protection. My So Called License was
8 Suspended for not paying Registration Fees because of past Unemployment (Job Discrimination).
9 Does this make me a Habitual Criminal? I have not been involved in any Accidents, No Drunk
10 Driving, Driving Under the Influence of Alcohol, No Safety Moving Violations like Speeding,
11 Running Stops Lights and or Signs. Does this make a Habitual Criminal that I should be
12 denied my Fourth Amendment Right and my Vehicle Held (Forfeited) for (30) Days without
13 a Full Probable Cause and Due Process Hearing? No this Doesn't Justify the Public Interest
14 of Concern.

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19 **(TOW OPERATOR - CENTRAL TOWING AND TRANSPORTING LIABLE**
20 **ALSO)**

21 Let Notice be taken here that Central Towing and Transporting did Tow and Hold my
22 Vehicle (Seize) my Private Property on their Property without Seizure Warrant. They also
23 Refused Release my Vehicle (Private Property). They stated to me to Talk to the Dublin Police
24 Services, and it was their Decision to Hold (Seize) my Vehicle (Private Property). This makes
25 the Tow Operator Liable under Section 1983 also. See: *Weintraub v. Park City, (Utah) 1984, 751 F.2d*
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357; Bim v. Artison, E.D. Wis.1989, 721 F. Supp. on subsequent appeal 924 F.2d 1061 remand 764 F. Supp. 129. See also: Katona v. City of Cheyenne, S. D. Wyo.1988, 686 F. Supp. 287.

The Tow Operator is Personally Liable for Unlawful Towing and Storage (Seizing) of my Vehicle (Private Property). He had to have Noticed that it was being towed from another City and County, which is Not in the Boundaries and Jurisdictional Limits of the City of Dublin Police Services and Alameda County who has Contracted their Services. He the Tow Operator who Towed and (Seized) my Vehicle (Private Property) without Fourth Amendment Seizure Warrant. They Held my Vehicle (Private Property) and Refused to Release it for the (30) Day Hold (Seizure) without Fourth Amendment Seizure Warrant, Authority. See: Katona v. City of Cheyenne, S. D. Wyo.1988, 686 F. Supp. 287.

(MULTI-BILLION DOLLARS INDUSTRY UNDER THE COLOR OF LAW)

The Seizing and (Stealing) of Vehicles Unlawfully in Violation of Due Process of Law, has become a Multi Billions of Dollars Industry. Where does California and the Rest of States come up with over 2.5 Million Vehicles per year from? That doesn't count the Vehicles that where Seized for one day and Returned. It doesn't count the Vehicles that the Vehicles that the Bank Repossessed from a (30) Day hold because the Registered Owner could Not Pay the over \$1500 to get their Vehicle back from Impound. It costs almost \$200 for Impound and Storage Fee and Administrative fee for (1) Day. All Under the Color and Guise of State Law and Police Powers. The City of Dublin Police Services probably shares in about 5 to 10 Million Dollars per year in Towing, Seizing, Impounding and Sales of Vehicles (Forfeiture), in Violation of Due Process of Law and Fourth Amendment. ("There is nothing even remotely criminal

1
2 In Owning and possessing an automobile.") (quoting One 1958 Plymouth Sedan v. Pennsylvania, 380 U.S. 693 (1965)).

3 This is also what I am Attacking it is Unconstitutional on its Face and an Action Under the
4 Color of State Law which Violates the Fourth Amendment and the Fourteenth Amendment
5 Federal Constitution.
6

7 Mathews, 424 U.S. at 335. The particular deprivation with which we are concerned here is the City's post-seizure,
8 pre-judgment retention of plaintiffs' vehicles..... Krimstock, 2000 WL 1702035, at 36-37. We are troubled by this
9 conclusion. *Neither the arresting officer's unreviewed probable cause determination nor a court's ruling in the*
10 *distant future on the merits of the City's forfeiture claim can fully protect against an erroneous deprivation of*
11 *a claimant's possessory interest as his or her vehicle stands idle in a police lot for months or years.*

12 There will be No Fourth Amendment Probable Cause Hearing, No Due Process Hearing
13 with Cross Examination of the Police Officers and other Witnesses. The Police Hearing Officer
14 Hearing Will Never Satisfy Due Process and Forfeiture in these type of Matters.

15 Mathews, 424 U.S. at 335. The particular deprivation with which we are concerned here is the City's post-seizure,
16 pre-judgment retention of plaintiffs' vehicles. Krimstock, 2000 WL 1702035, at 36-37.

17 The Probable Cause for Seizure of my Vehicle will not be Heard and I will Not Be
18 Able to Cross Examine the Police Officer and there where be Adversarial type Hearing In Front
19 of a True Neutral Administrative Judge who is Truly Impartial, Unbiased and truly represents
20 Fairness, Justice and True Due Process of Law. The Police Hearing Officer is a Police
21 Officer who employed by, part of and under the Authority of same Police Department.
22

23 **(#1-B) - (NO FOURTH AMENDMENT SEIZURE WARRANT TO HOLD**
24 **MY VEHICLE)**

25 I guess the Fourth Amendment has No Meaning or Restraint any more. The Fourth
26 Amendment is Not a Valid Protection against Unlawful Seizure's of Private Property. It seems
27 it is this way because Police can Seize and Hold my Vehicle for (30) Days without any
28

Judicial Hearing and Judicial Determination of Probable Cause and other Fourth Amendment Protections. The Police and the Tow Agency are Holding my Vehicle for (30) Days without Fourth Amendment Seizure Warrant and or Order. Police Sargent George Lytle told Me: "the Fourth Amendment does not apply here." He also stated to me that I did Not have a Right to any Hearing whatsoever and the City of Dublin will not Change their Decision to Hold My Vehicle Whatsoever. I Demanded as a Matter of Due Process Right Notice and Opportunity to Defend. He Refused to tell me where my Vehicle was being Held and why it was being Held. He Refused to even discuss the Holding of my Vehicle and what is was Being Held for (30) Days. I received No Notification, Authority for (30) Day Hold on my Vehicle and Notification of Hearing Rights and Administrative Adjudication Procedural Due Process. Sargent George Lytle Badge No. 761, stated to me several times that the Fourth Amendment does Not apply to a Vehicle Seizure. My Vehicle is being Seized by Civil Forfeiture Laws (Hold). I did Serve the Dublin Police Services Attn: Sgt George Lytle Badge No 761, with Several Notices and Demand for Fourth Amendment Seizure Rights, Fourteenth Amendment Heightened Due Process Forfeiture Hearing Rights. See: (Exhibits A, B, C, D). See:

"The Fourth Amendment is Not the beginning of the end to Constitutional Inquiry whenever a Seizure occurs."

It is true, of course, that the Fourth Amendment applies to searches and seizures in the civil context, See Camara v. Municipal Court of San Francisco, 387 U.S. 523 (1967) In: UNITED STATES v. JAMES DANIEL GOOD REAL PROPERTY, 510 U.S. 43, Id, at 50 (1993)

Thus, even if was to be considered a Civil Forfeiture Action (30) Day Hold, it is still held to the Fourth Amendment Seizure Warrant Requirement. A Civil Penalty in Nature does

1 does Not Transcend the Fourth Amendment Seizure Warrant Requirement. See: See Camara v.
2 Municipal Court of San Francisco, 387 U.S. 523 (1967); In: UNITED STATES v. JAMES DANIEL GOOD REAL PROPERTY,
3 510 U.S. 43, Id, at 50 (1993). It would also be under the Forfeiture Hearing Right of Due
4 Process of Law. There are powerful Hydraulic Pressures throughout history that bear heavily on the Courts to water down
5 Constitutional guarantees. Adams v. Williams, 407 U.S. 143 at 161-162 (1972). This is a Police Officer who
6 is attempting to force a Change in his Favor and to bypass Cardinal Constitutional Guaranties.
7 Let Notice be taken here, that I gave the Named Sgt. George Lytle # 761, Full
8 Constitutional Demands full warning and Establishing my Constitutional Rights. Sgt. George
9 Lytle Denied my Demand for Notice of Why, Where and What Authority my Vehicle (Private
10 Property was being Held.

11 **(TOW OPERATOR - CENTRAL TOWING AND TRANSPORTING LIABLE**
12 **ALSO)**

13 Let Notice be taken here that Central Towing and Transporting did Tow and Hold my
14 Vehicle (Seize) my Private Property on their Property without Seizure Warrant. They also
15 Refused Release my Vehicle (Private Property). They stated to me to Talk to the Dublin Police
16 Services, and it was their Decision to Hold (Seize) my Vehicle (Private Property). This makes
17 the Tow Operator Liable under Section 1983 also. See: Weinrauh v. Park City, (Utah) 1984, 751 F.2d
18 357; Bim v. Artison, E.D. Wis.1989, 721 F. Supp. on subsequent appeal 924 F.2d 1061 remand 764 F. Supp. 129. See
19 also: Katona v. City of Cheyenne, S. D. Wyo.1988, 686 F. Supp. 287.

20 The Tow Operator is Personally Liable for Unlawful Towing and Storage (Seizing) of
21 my Vehicle (Private Property). He had to have Noticed that it was being towed from another
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City and County, which is Not in the Boundaries and Jurisdictional Limits of the City of Dublin Police Services and Alameda County who has Contracted their Services. He the Tow Operator who Towed and (Seized) my Vehicle (Private Property) without Fourth Amendment Seizure Warrant. They Held my Vehicle (Private Property) and Refused to Release it for the (30) Day Hold (Seizure) without Fourth Amendment Seizure Warrant, Authority. See: Katona v. City of Cheyenne, S. D. Wyo.1988, 686 F. Supp. 287.

SGT. GEORGE LYTLE ORDERED THIRTY (30) DAY HOLD ON MY VEHICLE (PRIVATE PROPERTY)

Sgt. George Lytle Bade No. 761 stated to me on Monday March 24th, 2008, that he had Ordered the (30) Day Hold on my Vehicle (Private Property). You where Driving on a Suspended Driver's License the Second time, he stated. I told him I have not been Convicted of any of those. He then stated to me: "It Doesn't matter we can Hold your Vehicle for (30) days." He offered me No Authority for his Action other than he Could do it. I made a Clear very Loud Objection and Protest Claiming that the Vehicle is being Held Unlawfully in Violation of the Fourth Amendment Seizure Warrant Requirement. I Quoted to him: Camara v. Municipal Court of San Francisco, I did not Remember the Site No.. Here is the Excerpts from the Conversation: March 24th, 2008 at or about 2:12 PM:

He further stated: I Refuse to give you any other Information about your Vehicle, Towing and otherwise." You can sue if you like but that will not go anywhere. "I have been sued before."

Me: I then stated that: "I Unemployed again and this will become a Forfeiture because of Cost and Fees in excess of \$1500.00."

ME: I must Object and Protest Timely that this Seizure is Unlawful and that I am Establishing a Clearly Established Constitutional and Civil Right."

1 He Just Stated: "the Fourth Amendment does not Apply to a Hold under Civil Law."

2 Me: "I further Demanded to Sgt George "Lytle where is my Right to Forfeiture Hearing as part of
3 Heightened Due Process Requirements under the Fourteenth Amendment.

4 He: Stated to me we are Not taking your Vehicle under Forfeiture we are just Holding It for (30)
5 Days.

6 Me: I stated to Police Officer Sgt. Lytle that I was Stopped Clearly outside of City of Dublin and
7 Alameda County Jurisdictional Boundaries of Authority and Police Power Jurisdiction.

8 He: Well we can stop you within 500 feet of Boundary.

9 Me: That stop took place over 3/8 miles from that Boundary. That is where the Police Put on
10 on the Lights to Stop me. The Boundary of the City of Dublin and County of Alameda is Before
11 Alcosta Blvd. The City of Dublin Police Services have No Business and Jurisdiction to Exercise
12 Jurisdiction there whatsoever.

13 He: Refused to answer that Issue of Material Facts whatsoever.

14 Me: "I Demanded to know under what Authority and I Demanded to see it in writing."

15 - ²He Just further stated Mr. Whitsitt, do we have any other business to talk about" "I have
16 Ordered that your Vehicle be held for (30) days and If you want any Information or Authority you
17 will have seek it through Discovery." We will Hold your Vehicle for (30) Days. I do not have to
18 offer you a Tow Hearing until After the (30) Days has passed."

19 At that point the Conversation ended and I Demanded that he either release my Vehicle
20 (Private Property). I again Demanded my Right to see a Fourth Amendment Probable Cause
21 Warrant, Authority for Holding my Vehicle. In Essence George Lytle Badge No 761, made a
22 Judicial Determination outside His Lawful Authority and Jurisdiction.

23 "[W]hen an officer acts wholly outside the scope of the powers granted to him by statute or constitutional provision,
24 the official's actions have been considered to be unauthorized." Ramirez de Arellano v. Weinberger, 745 F.2d
25 1500, 1523 (D.C. Cir. 1984).

26 This Named Police Officer is Not Competent enough and it is in Excess of his

27
28 ² He: is referring to Sargent George Lytle # 761 Me: is referring to myself the Plaintiff William J. Whitsitt.

1 Authority to Make Judicial Determination such as Holding my Vehicle for (30) Days. In
 2 Violation of the Fourth and Fourteenth Amendments. Acting in Excess of Lawful Jurisdiction
 3 and Authority is an Cause of Action under Section 1983. See:
 4

5 Misuse of power, possessed by virtue of state law and made possible only because wrongdoer is clothed with
 6 authority of state law, is action taken "under color of any statute", within this section. Henig v. Odorioso, C.A. 3 (Pa.)
 7 1967, 385 F.2d 491, certiorari denied 88 S. Ct. 1269, 390 U.S. 1016, 20 L.Ed.2d 166, rehearing denied 88 S.
 8 Ct. 1814, 391 U.S. 929, 20 L. Ed.2d 671. See, also, Basista v. Weir, C.A. 3 (Pa.) 1965, 340 F.2d 74; Baldwin v.
 9 Morgan, C.A. Ala.1958, 251 F.2d 780; Geach v. Moynahan, C.A.III.1953, 207 F.2d 714; Picking v. Pennsylvania
 10 R. Co., C.C.A. Pa.1945, 151 F.2d 240, rehearing denied 152 F.2d 753; Nugent v. Sheppard, D.C. Ind.1970, 318
 11 F. Supp. 31.

12 I Clearly Established my Constitutional and Civil Rights at the time of Deprivation. I
 13 Served (5) Objections and Demand for Return of my Private Property. See: Exhibits A, B, C, D,
 14 E). I made Objections at First meeting with Police Officer Lytle and at Tow Hearing in Front
 15 of Police Hearing Officer. Let Notice be taken here that, I did Object Timely at the Tow
 16 Hearing and (4) Times before the Tow Hearing that the Police Officer Tow Hearing Does Not
 17 and Will Not Satisfy Heightened Due Process and Fourth Amendment Probable Cause Hearing
 18 Requirements. Officer Lytle Obviously Does Not Care, he is so Used to acting in Excess of
 19 his Authority and Jurisdiction that he has No Regard for my Constitutional and Civil Rights.
 20 Officer Lytle must Believe that he is Beyond Reproach and above the Law.

21 "All persons dealing with public officers are bound to take notice of the law prescribing their authority and powers."
 22 Continental Casualty Co. v. United States, 113 F.2d 284 (5th Cir. 1940); See also: United States v. Jones, 176
 23 F.2d 278 (9th Cir. 1949).

24 Police Officer Lytle is Not Above the Constitution, My Constitutional and Civil Rights
 25 and the Law of the Land. The Roman Civil Law has NO JURISDICTION over me Whatsoever.

26 **(MY VEHICLE IS MY PRIVATE PROPERTY AND NOT FOR UNAUTHORIZED AND**
 27 **UNLAWFUL POLICE SEIZURES [HOLDS])**
 28

1 The Holding of My Vehicle which is my Personal Private Property is Not owned for
2 The Good of the Public. It is Not Owned by Privilege Granted by the Public. It is Not owned
3 as an Public Interests or Concern. My Vehicle is Not Owned by a Corporate Person and
4 involved in State Granted Privileges. I own my Vehicle which is my Private Property, by
5 Inalienable Right. I am Not a Creature or Creation of the State Legislature and I am Not their
6 Personal Property. I do Not owe my existence to the State Legislature. I know how be
7 Responsible for my Own Actions and Life, Liberty and Property. My Vehicle is Not Public
8 Property for the Public and Legislature's Good. I did Not give the Police Powers Jurisdiction
9 and Authority over my Vehicle (Private Property). I Drive and Operate my Vehicle on the
10 Public Roads and Highways by Absolute Inalienable Constitutional Right. I take Responsibility for
11 my own actions. I am completely outside of Legislative Control and Police Power Control. I
12 Take Control over my own actions and over my Life. I Claim that Right to Personal Liberty
13 that is Free from Government Control. I have Wrote and Served the California Department of
14 Motor Vehicles this Demand 14 times in this past almost 3 years. My Vehicle is my Private
15 Property and Not Subject to the Police Powers, Unlawful Seizures (Holds) and thus is Held
16 to a much Higher Due Process of Law Protection.

17 It is well-established "that a State may not impose a penalty upon those who exercise a right guaranteed by the
18 Constitution." Harman v. Forssenius, 380 U.S. 528, 540 (1965); accord: Dunn v. Blumstein, 405 U.S. at 341.

19 seizure without court order abridges constitutional due process. Snladach v. Family Finance Corp. of Bay View, 395
20 U.S. 337 (1969).

21 I have the Right to be Free From Government Interference with my Right to Travel and
22 Carry on my Private Concerns and Rights.
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1 It is a promise of the Constitution that there is a realm of personal liberty which the government may not enter.
2 Michael H. v Gerald D., 491 US 110, 127-128, n 6, 105 L Ed 2d 91, 109 S Ct 2333 (1989) (opinion of Scalia, J.).

3 I Clearly Established my Right to Liberty at the time of Deprivation.

4 **TOW HEARING DID NOT SATISFY DUE PROCESS OF LAW AND FOURTH**
5 **AMENDMENT PROBABLE CAUSE HEARING REQUIREMENT.**

6 They finally agreed to have a Tow Hearing after (9) days my Vehicle (Private Property
7 has been Ordered Held (Seized) by the Named Police Officer. On April 1st, 2008 at 2PM
8 I Entered Dublin Police Department for a Tow Hearing. I brought my Friend Bob Howard who
9 had Testimony to provide at the Hearing. Here is Excerpts from that Tow Hearing.

10 ³Tow Hearing Officer: Who is he?

11 ME: "He is my friend Bob Howard, he has Testimony to offer as Evidence"

12 THO: "He is not allowed in this Hearing, he will have to leave, and wait outside." "There are No
13 Witnesses allowed at my Tow Hearings."

14 THO: "He will have to wait outside."

15 Me: "I do Object Timely" "I do have the Right to Present Evidence in Support of an Wrongful Tow Action."
16 "What about the Fourth Amendment Seizure Requirement?" "What about the Fourteenth Amendment Due
17 Process Requirement?"

18 THO: Not at this Tow Hearing, we have already decided that our Action to Hold your Vehicle is Valid and we
19 are Not going to Change our Decision." You have No Remedy here and Recourse on the Hold of your Vehicle."
20 "California Law does Not Provide a Hearing to Determine Validity of Section 14601.2 of Vehicle Code, Hold. "We
21 have received all you Documentation of over 20 pages in 4 Notices and Demands that where received." "That
22 Code does NOT afford you t he Right to Contest the Hold." "The Fourth Amendment does Not Apply to the
23 California Vehicle Code."

24 Me: "Did you read those Served Document?" "What about the Fourth Amendment Seizure
25 Requirement?" "What about the Fourteenth Amendment Due Process Requirement?"

26 THO: "He just stated again that we received them."

27 I believe that is the Section Number he Quoted."

28 THO: Do you have anything else to offer us.?"

Me: I have 3 Affidavits plus my Testimony that will support that the Police Officers pulled me over in City
of San Ramon and County of Contra Cost clearly outside of City of Dublin and County of Alameda Jurisdiction." The

³Two Hearing Officer will be: THO. Me: Is Me the Plaintiff William J. Whitlitt

1 Affidavits from: Steve Swift; Michael Swift; Rick Lincoln, are Evidence and Proof that My Vehicle was Towed
2 outside of City of Dublin and Alameda County Authority and Jurisdiction"

3 THO: I will accept that and hand to my Legal Staff. Can we have those originals or can we make a copy
4 of them." I believe we have a difference of Opinion on our City Limits and County Limits of Authority and Jurisdiction.

5 Me: You may make a Copy of those Affidavits from: Steve Swift; Michael Swift; Rick Lincoln. "I also
6 state doesn't Probable Cause also determine Validity of Tow?" According to U.S. v. James Daniel Good Real Property."
7 "I must be afforded a full Forfeiture type Hearing which Requires a Full Probable Cause and Evidentiary Hearing with
8 Cross Examination of Police Officers and Witnesses Testimony." "What about the Fourth Amendment Seizure
9 Requirement?" "What about the Fourteenth Amendment Due Process Requirement?"

10 THO: "Not at a Section 14601.2 Vehicle Code Hold, Tow Hearing." "We have made determination to hold
11 your Vehicle for (30) days and you have No Recourse or Remedy.: This Code does Not Afford a Hearing (14601.2
12 California Vehicle Code).

13 Me: "I OBJECT Timely." "What are we having this Tow Hearing for then?" "What about the Fourth
14 Amendment Seizure Requirement?" "What about the Fourteenth Amendment Due Process Requirement?"

15 THO: Because you asked for a Tow Hearing."

16 Me: "I again OBJECT timely." "This so-called Tow Hearing does not Afford me the Right to Challenge
17 Probable Cause and it does Not Satisfy Due Process Cross Examination Requirement.

18 THO: We have decided to shortened the time from (30) day Hold to a (15) days you may pick up the Truck
19 on April 8. Just pay the \$ 150.00 Administration Fee. Then you will have to work out with the Tow Company the Tow
20 and Storage Fees.

21 Me: "I OBJECT again that this Hearing does Not satisfy Forfeiture and Probable Cause Requirements."

22 THO: He stated again that they will shorten the (30) day Hold to (15) day Hold. You may pick up Vehicle
23 up on April 8th, 2008. Do you have anything else to add?"

24 Me: "I OBJECT Timely again."

25 THO: "Then this Hearing is over."

26 The Tow Hearing on April 1st, 2008, lasted for about 20 minutes. He the Hearing
27 Officer stated 2 times that the (14601.2 California Vehicle Code Hold) does Not Afford you
28 the Right to a Hearing to Contest the Hold or Probable Cause for the Hold. This Violates
SEE: seizure without court order abridges constitutional due process. Snidach v. Family Finance Corp. of Bay View, 395
U.S. 337 (1969). See Also: Mathews v. Eldridge, 424 U.S. 319 (1976). This Tow Hearing where I was
Not Allowed to Contest the Probable Cause for the Stop by the Police and Contest the
Validity of Vehicle Hold (Seizure) for (30) days (Forfeiture). I was Not even Allowed to have
my Friend Bob Howard Testify as Evidence in Support of My Challenge to Probable Cause

1 and Vehicle Hold. I was Not Afforded a Real Hearing to Contest the Validity of Probable
2 Cause for Tow and Subsequent Hold (Seizure) of my Vehicle. I was Denied the Constitutional
3 Right to Contest Vehicle Hold (Seizure) for (30) Days.
4

5 Let Judicial Notice be Taken, here that the City of Dublin California and other Stopping
6 Police Officers of Dublin Police Services are being sued in other Separate Complaints and they
7 are Not Part of this Section 1983 Suit.
8

9 **(# 1-C.) - NO PROBABLE CAUSE FOR STOP, SEIZURE OF MY PROPERTY**
10 **AND ARREST OF MY PERSON.**

11 LET JUDICIAL NOTICE BE TAKEN HERE, THAT THE FALSE AND UNLAWFUL
12 ARREST ARE NOT ON TRIAL WITH THIS SEPARATE CAUSE OF ACTION AGAINST
13 AN INDIVIDUAL POLICE OFFICER GEORGE LYTTLE BADGE NO. 761. I bring up the
14 Issue of Probable Cause as its Concerns the Unlawful Seizure of my Vehicle (Private Property).
15 This in Violation and Deprivation of the Fourth Amendment.
16

17 I have ⁴Several Witnesses not including myself that the Police Stop took place almost
18 a Half mile within Contra County and the City of San Ramon California. The Stop was
19 outside the County of Alameda and City of Dublin California's Lawful Territorial Boundaries and
20 Jurisdiction. The Argument that I Committed a Traffic Violation in their Presence is Not Valid.
21 At first the Police Officer stated that could not read the Old Original License Plate. It had
22 a April Temporary Sticker in the back Window. The License Plate has a 2009 Current
23
24
25
26

27
28 ⁴Steve Swift, Rick Lincoln, Michael Swift, myself.

1 Registration Sticker on it. The ²Police Officers said he was Unable to Read my License Plate then,
2 He then stated I believe you have a Stop Light out. This is totally Wrong because I just
3 checked all the Lights: Stop Lights, Turn Indicators and Head Lights just within the last half
4 Hour to make sure everything was working and they where. Thus the old Your Stoplight is
5 Out, Excuse for Probable Cause is Not Valid. It was Lie to Establish Probable Cause. I
6 Demanded that the Police Officer prove to me that my Stop Light was out. They Refused. The
7 Reason they Refused to prove me that Stop Light was out was that it was working. Police
8 Officers are Known Liars under Oath. The Police Officer's Just had to Create a Probable Cause
9 and Excuse for the Unlawful Stop. They had to make up some Excuse for Probable Cause.
10 See: *Berkemer v. McCarthy*, No. 83-710, decided July 2, 1984. See also *Adams v. Williams*, 407 U.S. 143, 148 and *Terry*
11 *v. Ohio*, 392 U.S. 34. Let Judicial Notice be Taken here that the Police Officer Never Cited me
12 for Stop Light being Out. The Police Officers where actually looking for Michael Swift who
13 Owned that Dodge Pick Up Truck for many years and was Harassed, Stopped without
14 Justification, Searched and Never Charged for any Real Crime. See: (Affidavit from Michael
15 Swift). The Dublin Police Officers even asked Michael Swift what happened to the Dodge Pick
16 up Truck about a week earlier.

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21
22 There was No Legitimate Probable Cause for the Stop other then Thinking they where
23 Stopping Michael Swift and to Harass him.

24 The Stop took place Clearly outside of City Limits and County of Alameda Jurisdiction.
25 Thus, Acting Outside of Their Lawful Jurisdiction and Police Power Authority from the City
26

27
28 ⁵Alameda County Sheriff Deputies: Whithall # 429; A. Grarth # 1340, who are contracted with the city of Dublin Police Services.

of Dublin California. Let Judicial Notice be Taken, here that the City of Dublin City Limits end at the Back Home Fence about 15 Feet before Alcosta Blvd. The Police Stop began over 3/8 miles further in Contra Costa County and the City of San Ramon California. Thus, Clearly Establishing a Claim and Cause of Action Under Section 1983. I have Clear Established my Constitutional Right against Unlawful Stops outside of City of Dublin Police Jurisdiction. False Unlawful Arrest and Unlawful Seizure of my Vehicle (Private Property) outside of Lawful Jurisdiction and Police Power Authority. They had to have Known that they where beyond there Lawful Jurisdictional and Police Power and City of Dublin and Alameda County Boundaries. The City of Dublin and Alameda County Sheriffs have No Jurisdiction whatsoever on Alcosta Blvd., because it is 15 feet beyond City and County Jurisdictional Limits. Thus the Police Stop and Subsequent Seizure of my Vehicle and Arrest of my Person for Failure to Appear Misdemeanor Warrant was Unlawful, Unreasonable, without and in Violation of Fourth Amendment Probable Cause.

Henig v. Odorico, C.A. 3 (Pa.) 1967, 385 F.2d 491, certiorari denied 88 S. Ct. 1269, 390 U.S. 1016, 20 L. Ed.2d 166, rehearing denied 88 S. Ct. 1814, 391 U.S. 929, 20 L. Ed.2d 671. See, also, Basista v. Weir, C.A. 3 (Pa.) 1965, 340 F.2d 74; Baldwin v. Morgan, C.A. Ala.1958, 251 F.2d 780; Geach v. Moynahan, C.A. Ill.1953, 207 F.2d 714; Picking v. Pennsylvania R. Co., C.C.A. Pa.1945, 151 F.2d 240, rehearing denied 152 F.2d 753; Nugent v. Sheppard, D.C. Ind.1970, 318 F. Supp. 314;

The City of Dublin Police Services and Alameda County Sheriffs Department must Except Responsibility and Liability also because they have Contracted their Police Services and Liability to Suit. The Respondent Superior Doctrine is Not being Applied here because of Contractual Obligation and Liability by the City of Dublin Police Services and Alameda County Sheriffs

⁶Alameda County Sheriff Deputies: Whithall # 429; A. Garth # 1340, who are contracted with the city of Dublin Police Services.

1 Department. The City Dublin Police Officers Must Have Known that they where outside of their
2 Lawful Police Power and Authority Jurisdictional Boundaries. Let Notice be taken here, that I
3 Objected to their being outside of City of Dublin and Alameda County Jurisdictional Boundaries.
4 Thus Probable Cause for the Seizure of my Vehicle does Not Exist. Let further Notice be
5 taken here that I did explain this to Sgt. George Lytle several times and I made the
6 Objection at the City of Dublin Police Services Tow Hearing. When I made the First
7 Objection with Police Officer Sgt. George Lytle he simply stated that he did Not Care.

8 Let Judicial Notice be taken, here that Central Towing (Towing Agency) Seized, Towed
9 and Stored my Vehicle and is a Named Defendant and Co-Conspirator. The Tow Agency must
10 have Known that they where Clearly Outside of City of Dublin and Alameda County
11 Jurisdictional and Authority Boundaries. Let Notice be taken here, that they where served a
12 Copy of All Notices of Objection and Demand for Return of my Vehicle (Private Property).
13 See: (Exhibits A, B, C, D, E). My Vehicle is being Held Unlawfully in Violation of the Fourth
14 Amendment on Central Towing Impound Lot. **LET NOTICE BE TAKEN, HERE THE TOW**
15 **AGENCY IS NOT ON TRIAL IN THIS CAUSE OF ACTION UNDER SECTION 1983.**

16 [When an officer acts wholly outside the scope of the powers granted to him by statute or constitutional provision,
17 the official's actions have been considered to be unauthorized." Ramirez de Arellano v. Weinberger, 745 F.2d
18 1500, 1523 (D.C. Cir. 1984).

19 Thus, with the (5) Notices of Objection which detail Jurisdiction, Probable Cause and
20 Authority; Violation of the Fourth Amendment, Violation of Heightened Due Process under the
21 Fourteenth Amendment, I have Clearly Establish my Constitutional and Civil Right. The Named
22 Police sgt. George Lytle had to have Known that his Actions where:

* Under the Color and Guise of State Law.

* Unauthorized and beyond his Lawful Jurisdiction.

* In Violation of my Clearly Establish Fourth Amendment Right.

* In Violation of my Clearly Established Heightened Fourteenth Amendment Right.

* In Violation of my Clearly Established Right to Forfeiture Hearing Due Process of law.

* Seizing and Holding of my Private Property In Violation of Fourth Amendment.

* Exercising Judicial Discretion without and in Excess of Jurisdiction and Lawful Authority.

"All officers, including judges, are liable if they act wholly outside of their jurisdiction or official authority, even where the act is a discretionary one. The officer is then regarded as not acting in the capacity of an officer at all." Roblechaud v. Ronan, 9 Cir. 1965, 351 F.2d 533

The above decision states it without a doubt about Liability and the Named Sargent is Completely liable.

"Liability in damages for unconstitutional or otherwise illegal conduct has the very desirable effect of deterring such conduct. Indeed, this was precisely the proposition upon which 42 USC section 1983 was enacted". . . "Judges may be punished criminally for willful deprivations of constitutional rights on the strength of 18 USC Section 242." Imbler v. Pachtman, U.S. 47 L. Ed. 2d 128, 96 S. Ct.

It is Very Clear, the Named Police Officer has Reckless Disregard for my Constitutional and Civil Rights.

(TOW OPERATOR - CENTRAL TOWING AND TRANSPORTING LIABLE ALSO)

Let Notice be taken here that Central Towing and Transporting did Tow and Hold my Vehicle (Seize) my Private Property on their Property without Seizure Warrant. They also Refused Release my Vehicle (Private Property). They stated to me to Talk to the Dublin Police Services, and it was their Decision to Hold (Seize) my Vehicle (Private Property). This makes

the Tow Operator Liable under Section 1983 also. See: Weintraub v. Park City, (Utah) 1984, 751 F.2d 357; Blm v. Artison, E.D. Wis.1989, 721 F. Supp. on subsequent appeal 924 F.2d 1061 remand 764 F. Supp. 129. See also: Katona v. City of Cheyenne, S. D. Wyo.1988, 686 F. Supp. 287.

The Tow Operator is Personally Liable for Unlawful Towing and Storage (Seizing) of my Vehicle (Private Property). He had to have Noticed that it was being towed from another City and County, which is Not in the Boundaries and Jurisdictional Limits of the City of Dublin Police Services and Alameda County who has Contracted their Services. He the Tow Operator who Towed and (Seized) my Vehicle (Private Property) without Fourth Amendment Seizure Warrant. They Held my Vehicle (Private Property) and Refused to Release it for the (30) Day Hold (Seizure) without Fourth Amendment Seizure Warrant, Authority. See: Katona v. City of Cheyenne, S. D. Wyo.1988, 686 F. Supp. 287.

(# 2.) - WAIVER OF GOOD FAITH AND QUALIFIED IMMUNITY.

The ¹Named Police Officer Act Intentionally, Knowingly and Deliberately with Wanton Intent on Malice. He Clearly Knew that his Acts where outside his Authority, in Violation of my Federal Constitutional and Civil Rights. I Clearly Established my Constitutional and Civil Rights, against Unlawful Seizure of my Vehicle, the Right to have a Forfeiture Hearing, Heightened Due Process Requirements. I established my Fourth Amendment Right against the (30) day Hold without Seizure Warrant as Unlawful. I Served the Police Officer Several Notices of Warning and Demanding Constitutional and Civil Rights. See: **(Exhibits A, B, C, D, E)**. I made Several Verbal Timely Objections to the Named Police Officer. He Stated several times to me

⁷ Sgt George Lytle No 761

1 that He Had been to John F. Kennedy University Law School, so Had to have known that
2 His acts where where Unlawful, in Excess of his Jurisdiction and Authority, in Violation of
3 the Fourth and Fourteenth Amendments, and he was Action Outside his Lawful Authority and
4 Jurisdiction. He also further stated that he has been a Police Officer for over (35) years. Thus,
5 I have Clearly Established my Constitutional and Civil Rights at the time and the Continued
6 Violation and or Deprivation of those Rights.
7

8
9 Clearly established Right Qualified Immunity - ask whether such Right was clearly established , see: Saucier v. Katz,
10 (U.S. 2001), 533 U.S. 194, 121 S. Ct. 2151, 150 L. Ed. 2d. 272; see also: Wilson v. Layne, (U.S. Md. 1999) 526
11 U.S. 603, 119 S. Ct. 1692, 143 L. Ed. 2d 818.

12 Thus, the Named Police Officer Knowingly and Wantonly Waived Good Faith and
13 Qualified Immunity. He Knew that his Acts where in Violation of Fourth and Fourteenth
14 Amendments. He Had to Have Known that he was Acting Recklessly Outside his Lawful
15 Authority and Jurisdiction. The Named Police Officer Knew full well and as he Stated Several
16 times I don't Care about Your Federal Constitutional Rights. He knew full well that I did
17 Not Receive Notice before my Vehicle (Private Property) was Seized that my Vehicle would
18 Be Seized Held for (30) Days without Fourth Amendment Seizure Warrant. I would have
19 Contested and Fought that State Action till my dying last breath. The State would Not be able
20 to Seize and Hold my Vehicle Unlawfully in Violation of the Fourth and Fourteenth Amendments.
21 I Explained this to the Police Officer Named, He stated to me He did Care whatsoever. I did
22 Serve him with Several Notices and Demand that my Vehicle be Released at once. See Exhibits
23 A through E. Thus, the Named Police Officer Clearly, Knowingly and Deliberately Waived his
24 Qualified Immunity against Personal Liability. See:
25
26
27
28

Public Official is not entitled to qualified immunity when he contours of allegedly violated Right were sufficiently clear that reasonable official would understand that he was doing violated that Right. P.B. v. Koch, C.A.9 (Idaho) 1996, 96 F.3d 1298; see also: Wilson v. Layne, (U.S. Md. 1999) 526 U.S. 603, 119 S. Ct. 1692, 143 L. Ed. 2d 818.

Thus a Full and Knowing Waiver of Qualified Immunity.

The ^sNamed Police Officer did Unlawfully and Outside his Authority make a Judicial Fourth Amendment Seizure Determination of Seizing my Vehicle, (30) Day Hold. He acted in Discretionary manner by making the Determination to Hold (Seize) my Vehicle for (30) days in Clear Violation of the Fourth and Fourteenth Amendments Federal Constitution. The Named Police Officer Acting as an Administrative Officer who does Not enjoy Absolute Judicial Immunity, even though he is Not a Administrative Hearing Officer. He state to me that he is Not an Administrative Hearing Officer. He made an Administrative Decision outside his Lawful Authority to make that Decision. The Decision to Hold (Seize) my Vehicle (Private Property) without Seizure Warrant and or Judicial Determination Violate the Fourth and Fourteenth Amendments. Thus Clearly Outside the Scope of his Lawful Authority and Jurisdiction. See, e.g., Richardson v. Koshiba, 693 F.2d 911, 913-14 (9th Cir.1982) (even: judicial personnel are not absolutely immune when performing executive functions); Harlow, 102 S. Ct. at 2735. See also: Scheuer v. Rhodes, 416 U.S. at 247, 94 S. Ct at 1692.

The determination of whether a law enforcement officer is entitled to qualified immunity involves a two-step analysis. Saucier v. Katz, 533 U.S. 194, 201 (2001). In the first step we must view the record in the light most favorable to the party asserting injury in determining whether the officer's conduct violated a constitutional right. Id. If the plaintiff establishes the violation of a constitutional right, we must next consider whether that right was clearly established at the time the alleged violation occurred. Id. The contours of the right must have been clear enough that a reasonable officer would have understood that what he or she was doing violated that right. Anderson v. Creighton, 483 U.S. 635, 640 (1987).

^sSgt George Lytle No 761

1 There is No Qualified Immunity available to a Police Officer who Knowingly, Wantonly
2 and Deliberately without Caring, Violates the Clear Constitutional Mandate of the Fourth and
3 Fourteenth Amendments Federal Constitution. The Named Police Clearly had Intentional and
4 Wanton, Reckless and Deliberate Disregard for my Constitutional and Civil Rights.
5

6 The Law of Not Allowing Cities to Hold (Seize) my Vehicle for (30) Days and more
7 than (1) Day is well Established and Well Known. The following Decisions make Clear that
8 the Named Police Officer had to have and must have known the Truth that his Actions where
9 Clearly Unlawful and in Violation of the Fourth and Fourteenth Amendments Federal Constitution.
10 He Knew the Truth that his Actions are Not Authorized by Federal Law and in Violation of
11 my Federal Civil and Constitutional Rights. The Decision Clearly Establish my Civil Rights:
12

13 The Due Process Clause of the Fifth Amendment guarantees that "[n]o person shall . . . be deprived of life, liberty,
14 or property, without due process of law." Our precedents establish the general rule that individuals must receive
15 notice and an opportunity to be heard before the Government deprives them of property. See United States v.
16 \$8,850, 481 U.S. 555, 562, n. 12 (1983); Fuentes v. Shevin, 407 U.S. 67, 82 (1972); Sniadach v. Family
17 Finance Corp. of Bay View, 395 U.S. 337, 342 (1969) (Harlan, J., concurring); Mullane v. Central Hanover Bank
18 & Trust Co., 339 U.S. 306, 313 (1950).

19 Neither Gerstein nor Graham, however, provides support for the proposition that the Fourth Amendment is the
20 beginning and end of the constitutional inquiry whenever a seizure occurs. That proposition is inconsistent with the
21 approach we took in Calero-Toledo v. Pearson Yacht Leasing Co., 416 U.S. 663 (1974), which examined the
22 constitutionality of ex parte seizures of forfeitable property under general principles of due process, rather than the
23 Fourth Amendment. And it is at odds with our reliance on the Due Process Clause to analyze prejudgment seizure
24 and sequestration of personal property. See, e. g., Fuentes v. Shevin, 407 U.S. 67 (1972); Mitchell v. W. T. Grant
25 Co., 416 U.S. 600 (1974).

26 It is true, of course, that the Fourth Amendment applies to searches and seizures in the civil context, and may serve
27 to resolve the legality of these governmental actions without reference to other constitutional provisions. See Camara
28 v. Municipal Court of San Francisco, 387 U.S. 523 (1967) (holding that a warrant based on probable cause is
required for administrative search of residences for safety inspections); Skinner v. Railway Labor Executives' Assn.,
489 U.S. 602 (1989)

Though the Fourth Amendment places limits on the [UNITED STATES v. JAMES DANIEL GOOD REAL PROPERTY,

510 U.S. 43 (1993), 51] Government's power to seize property for purposes of forfeiture, it does not provide the sole measure of constitutional protection that must be afforded property owners in forfeiture proceedings. So even assuming that the Fourth Amendment were satisfied in this case, it remains for us to determine whether the seizure complied with our well settled jurisprudence under the Due Process Clause.

The practice of ex parte seizure, moreover, creates an unacceptable risk of error. Although Congress designed the drug forfeiture statute to be a powerful instrument in enforcement of the drug laws, it did not intend to deprive innocent owners of their property. The affirmative [UNITED STATES v. JAMES DANIEL GOOD REAL PROPERTY, 510 U.S. 43, 54 (1993)] defense of innocent ownership is allowed by statute. See 21 U.S.C. 881(a)(7) ("[N]o property shall be forfeited under this paragraph, to the extent of an interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner").

(1993) (holding that forfeitures under 21 U.S.C. 881(a)(4) and (a)(7) are subject to the limitations of the Excessive Fines Clause). Nor would that inquiry, in the ex parte stage, suffice to protect the innocent owner's interests. "[F]airness can rarely be obtained by secret, one-sided determination of facts decisive of rights. . . . No better instrument has been devised for arriving at truth than to give a person in jeopardy of serious loss notice of the case against him and opportunity to meet it." Joint Anti-Fascist Refugee Committee v. McGrath, 341 U.S. 123, 170-172 (1951) (Frankfurter, J., concurring) (footnotes omitted).

The Supreme Court has held that the Fourth Amendment protects claimants against unreasonable seizures of their property in the civil forfeiture context. See United States v. James Daniel Good Real Prop., 510 U.S. 43, 49 (1993) ("The Fourth Amendment does place restrictions on seizures conducted for purposes of civil forfeiture"); see also One 1958 Plymouth Sedan v. Pennsylvania, 380 U.S. 693, 696, 700 (1965) (holding that the exclusionary rule under the Fourth Amendment applies to civil forfeiture proceedings); cf. In re Seizure of All Funds in Accounts in Names Registry Publ'g, Inc., 68 F.3d 577, 580 (2d Cir. 1995) ("In order to seize property under [federal civil forfeiture law], the government must demonstrate that there was probable cause to believe that the property is subject to forfeiture."); United States v. Deccarett, 6 F.3d 37, 49 (2d Cir. 1993) ("[T]his circuit requires seizures made pursuant to [federal civil forfeiture law] to comport with the fourth amendment."); United States v. \$37,780 in U.S. Currency, 920 F.2d 159, 162 (2d Cir. 1990) (same).

This Police Officer who stated he went to John F. Kennedy University of Law, so he had to have or Must have known about Seizing and the Fourth Amendment and Heightened Due Process Requirements. The Above quoted decisions have been around for over 15 years to over 50 years. This is Not New Case Law and Practice it is Old Law and Required Practices. Thus, Old Required Practice and Case Law Clearly Established my Fourth and Fourteenth Amendment Rights many years ago in fact it goes back to the Framing of the Federal Constitution by our Forefathers. The Requirements of the Fourth and Fourteenth Amendments is

Not New Doctrine it it old and Well Clearly Established.

TOW OPERATOR AND TOW COMPANY DOES NOT HAVE COMMON LAW IMMUNITY WHATSOEVER.

The Towing Company and Tow Operator who Unlawfully Towed and Held (Seized) my Vehicle under the Color and Guise of State Law does Not Enjoy any Immunity whatsoever. He the Tow Operator and the Towing Company Contracted: Central Towing and Transporting Inc., have No Immunity whatsoever to Claim from Section 1983 Suit. See: *Halvorsen v. Baird*, 148 F.3d 680 (9th Cir. 1998) Id. at 686 (quoting *Richardson*, 521 U.S. at 409). Thus Elimination of both Good Faith and Qualified Immunity Claims.

(IN CONCLUSION)

I am Entitled to Return of my Vehicle (Private Property) Held (Seized) In Violation of the Fourth and Fourteenth Amendments Federal Constitution. I am Entitled to Actual Damages Damages and Punitive Damages as a Matter of Law, Rule Right and Case Law Precedents. I Move the Court to Grant all Demanded for Relief, Remedies and Damages Sought.

RELIEF AND REMEDIES SOUGHT: Immediate Return of my Vehicle (Private Property) without Costs of Towing, Storage, City and Towing Company Administrative Fees or any other Associated Fees or Costs. Also any other Remedies Ordered by this Court which is Just and Fair.

This is For the Wrongful, Unlawful SEIZING and Holding of my Vehicle Private Property in Violation of the Fourth and Fourteenth Amendments U.S. Constitution.

ACTUAL DAMAGES OF: Named Police Officer to pay \$ 1500 per day Actual Damages from March 23, 2008. From Tow Operator, Pay: \$ 1500 per day Actual Damages from March 23, 2008. From Central Towing and Transporting. Pay: \$ 1500 per day Actual Damages from March 23, 2008.

This is for loss of Use and Enjoyment of Vehicle Private Property and Forfeiture in Violation of Due Process and Fourth Amendment Seizure Warrant Requirements.

PUNITIVE DAMAGES: Police Officer: Pay \$ 350,000.00 Punitive Damages.
Tow Operator: Pay \$ 350,000.00 Punitive Damages.
From Central Towing and Transporting: Pay \$ 350,000.00 Punitive Damages.

This is Punitive Damages for the Reckless Disregard for, Wanton, Deliberate and Knowing Deprivation and Violation of My Constitutional and Civil Rights, with Intent on Malice.

I WILLIAM J. WHITSITT,  THIS THE 2nd DAY OF APRIL, 2008, DO HEREBY DECLARE AND AFFIRM THAT ALL THE ABOVE FACTS ARE TRUE AND CORRECT UNDER THE PENALTY OF LAW.

I WILL MOVE THE COURT TO GRANT AN EMERGENCY ORDER TO RELEASE MY VEHICLE PRIVATE PROPERTY AT ONCE WITHOUT FEES CHARGED FOR TOWING, STORAGE, ADMINISTRATIVE FEES AND ANY OTHER FEES ASSOCIATED WITH TOWING AND STORAGE UNLAWFULLY OF MY VEHICLE.

I WILLIAM J WHITSITT, AM THE MASTER OF THIS SUIT AND I WILL DECIDE WHAT LAW IT WILL PROCEED UNDER, SEE:

According opportunities for responsive pleadings to indigent litigants commensurate to the opportunities accorded similarly situated paying plaintiffs is all the more important because indigent plaintiffs so often proceed pro se and therefore may be less capable of formulating legally competent initial pleadings. See Haines v. Kerner, 404 U.S. 519, 520 (1972). 9 [490 U.S. 319, 331]. See also: Caterpillar Inc. v. Williams, 482 U.S. 386, 392 (1987).

RESPECTFULLY SUBMITTED


WILLIAM J. WHITSITT

DATED: April 2, 2008

DEFENDANTS CONTACT INFORMATION

DUBLIN POLICE SERVICES

100 Civic Plaza
Dublin, CA 94568
(925) 833-6670
Fax (925) 828-2893

CENTRAL TOWING AND TRANSPORT Tow Agency

FREMONT - Main Office

36849 San Pedro Drive
Fremont, CA 94536
(510) 797 - 5660

PLEASANTON

3932 Old Santa Rita Road
Pleasanton, CA 94568
(925) 734 -3400

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6 IN PROPRIA PERSONA

FILED E-filing
APR - 3 2008
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

IFP
NP
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7 **IN UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA SAN FRANCISCO**

9 WILLIAM J. WHITSITT
10 (PLAINTIFF)

11 -----VS-----

12 JEAN ZEDLITZ #1625

13 DUBLIN POLICE DEPARTMENT

14 R. LANCE & SON TOWING STORAGE AGENCY

15 CITY OF DUBLIN

16 COUNTY OF ALAMEDA

17 CREDIT REGULATING SERVICES, INC.

18 10 UNNAMED DEFENDANTS
19 (DEFENDANTS)
20
21

C08-01803 EDL

**COMPLAINT SECTION 1983
FALSE ARREST WRONGFUL
TOW FROM PRIVATE PROPERTY**

22 Comes Now, William J. Whitsitt, a Natural Born Citizen of the United States exercising
23 the Full Rights of Sovereignty as We The People. I come to this Court Seeking Full
24 Redress and A Remedy At Law. For Sovereignty of We The People See: CHISHOLM v. GEORGIA
25 (U.S. 2 Dall 419, 454, 1 L Ed 440, 455 (1793) pp 471-472; BOYD v. STATE OF NEBRASKA, 143 U.S. 135 at 158 (1892)
26 419. I come to this Federal District Court to Seek Remedy for a Towing and Seizing

SECTION 1983 COMPLAINT - DUBLIN

Page 1 of 30

10 44 SEC. N
NOTICE OF ASSIGNMENT
TO MAGISTRATE JUDGE SENT

1 My Private Property under the Color and Guise of State Law, in Violation of Due Process of
2 Law. My Private Property was Towed and Seized from the Private Parking area and Private
3 Property. The Vehicle Code has NO Jurisdiction upon Private Property. Thus Arrest and Towing
4 of Vehicle from Private Property Unlawful. I was Arrested on Private Property for a
5 Misdemeanor Traffic Violation.
6

7 **(JURISDICTION)**

8 The Venue is Correct, the City of Dublin is in Territorial Limits and Jurisdiction of the
9 Northern District of California.

10 The Subject Matter is Correct, because Section 1983 Grants Statutory Jurisdiction by Act
11 of Congress to the U.S. District Court. Federal Question Jurisdiction.
12

13 I have Standing to Sue because my Federal Rights where Denied under the Color of
14 State Law.

15 "suit arises under the law that creates the cause of action." Id., at 8-9, quoting: American Well Works Co. v.
16 Layne & Bowler Co., 241 U.S. 257, 260 (1916).

17 See: § 1343. Civil rights and elective franchise

18 Under the Color and Guise of State Law and City Ordinance the Named Police Officer did
19 Unlawfully, Wrongfully Seize my Person (Arrest), Seize and Tow my Vehicle (Property) from
20 Private Property.
21

22 Misuse of power, possessed by virtue of state law and made possible only because wrongdoer is clothed with
23 authority of state law, is action taken "under color of any statute", within this section. Henig v. Odorioso, C.A. 3 (Pa.)
24 1967, 385 F.2d 491, certiorari denied 88 S.Ct. 1269, 390 U.S. 1016, 20 L.Ed.2d 166, rehearing denied 88 S.Ct.
25 1814, 391 U.S. 929, 20 L.Ed.2d 671. See, also, Basista v. Weir, C.A. 3 (Pa.) 1965, 340 F.2d 74; Baldwin v.
26 Morgan, C.A. Ala. 1958, 251 F.2d 780; Geach v. Moynahan, C.A. Ill. 1953, 207 F.2d 714; Picking v. Pennsylvania
27 R. Co., C.C.A. Pa. 1945, 151 F.2d 240, rehearing denied 152 F.2d 753; Nugent v. Sheppard, D.C. Ind. 1970, 318
28 F.Supp. 31

Misuse of Power Under the Color of State Law (California Vehicle Code) Qualifies

Section 1983 Civil Rights Jurisdiction.

(CAUSES OF ACTION UNDER SECTION 1983)

Here is a Brief List of all Claims for Cause of Action under Section 1983. All Claims are Actions taken Under the Color of State of California Law (Vehicle and Penal Code). Thus, creating Causes of Action under Section 1983.

- * **(# 1.) - WRONGFUL TOW OF MY VEHICLE FROM PRIVATE PROPERTY.**
- * **(# 2.) - FALSE ARREST FROM PRIVATE PROPERTY.**
- * **(# 3.) - SEIZING OF VEHICLE PROPERTY IN VIOLATION OF THE FOURTH AND FOURTEENTH AMENDMENTS.**
- * **(# 4.) - ACTION UNDER THE COLOR OF STATE LAW.**
- * **(# 5.) - CITY OF DUBLIN CALIFORNIA AND POLICE DEPARTMENT AUTHORITY USED IN SEIZURE OF MY PERSON AND VEHICLE PROPERTY.**
- * **(# 6.) - FALSE IMPRISONMENT.**
- * **(# 7.) - CRUEL AND UNUSUAL PUNISHMENT.**
- * **(# 8.) - DENIAL OF FORFEITURE HEARING**
- * **(# 9.) - CONSPIRACY UNDER THE COLOR OF LAW.**

(# 1.) - WRONGFUL TOW OF MY VEHICLE FROM PRIVATE PROPERTY.

I come to this Federal District Court to Seek Remedy for a Towing and Seizing My Private Property under the Color and Guise of State Law, in Violation of Due Process of Law. My Private Property was Towed and Seized from the Private Parking area and Private Property. The Vehicle Code has No Jurisdiction over a Private Parking Lot. Let also Judicial

1 Notice be taken here, that the Named Police Officer is an Alameda County Sheriff's Deputy.

2 The Towing from Private Parking Lot under the Color and Authority of the California
3 Vehicle Code is Unlawful and Unconstitutional and it Violates the Fourteenth Amendment Right
4 to Taking of Property without Due Process of Law. It further Violates the Fourth Amendment
5 Right to be Free from Unlawful Seizures of Private Property without a Seizure Warrant. The
6 Owner of Parking did Not File a Complaint or Call the Named Dublin Police Officer who
7 is in Reality a Alameda County Sheriff Deputy. Thus No Probable Cause for Seizure of my
8 Vehicle (Private Property). The Authority under the California Vehicle Code to Tow form Private
9 Property (Parking Lot) does Not Exist. Thus Wrongful and Unlawful Tow from Private Property.
10
11

12 See: Ann.Cal.Vehicle Code § 22852.1d. U.S.C.A. Const.Amend. 14. Perry v. Village of Arlington Heights, 905 F.Supp. 485.

13
14 The California Vehicle Code has NO JURISDICTION upon a Private Parking Lot or
15 Private Property that is Not Owned by the Public. Thus Rendering the Tow as Unlawful
16 and Unauthorized. City Ordinances that Grant Police Powers and Vehicle Code Jurisdiction to
17 a Private Parking Lot are Unconstitutional on their Face and without Lawful Affect. The Towing
18 of my Vehicle from a Private parking Lot for a Vehicle Code and or Penal Code Violation
19 is Unlawful and a Misuse of Power possessed by State Law.
20
21

22 The Named Defendant Police (Deputy Sherif) was told by me that I was a Private
23 Parking Lot (Private Property) and the Vehicle Code has No Jurisdiction. I made this Claim
24 3 times to this Deputy Sherif. She just stated to me they have an agreement with Property
25 Owners to enforce California Vehicle Code. That argument does Not hold water.
26

27 The Deputy Sheriff must have known that her Acts, Action and Act of Omission where
28

1 in Violation and Deprivation of my Civil and Constitutional Rights. Action under the Color of
2 State Law and or in Excess or Misuse of Authority see:

3
4 Henik v. Odorioso, C.A. 3 (Pa.) 1967, 385 F.2d 491, certiorari denied 88 S.Ct. 1269, 390 U.S. 1016, 20 L.Ed.2d
5 166, rehearing denied 88 S.Ct. 1814, 391 U.S. 929, 20 L.Ed.2d 671. See, also, Basista v. Weir, C.A. 3 (Pa.) 1965,
6 340 F.2d 74; Baldwin v. Morgan, C.A. Ala. 1958, 251 F.2d 780; Geach v. Moynahan, C.A. Ill. 1953, 207 F.2d 714;
7 Picking v. Pennsylvania R. Co., C.C.A. Pa. 1945, 151 F.2d 240, rehearing denied 152 F.2d 753; Nugent v. Shep-
8 pard, D.C. Ind. 1970, 318 F.Supp. 314;

9 The City of Dublin Police Services and Alameda County Sheriffs Department must Except
10 Responsibility and Liability also because they have Contracted their Police Services and Liability
11 to Suit. The Respondent Superior Doctrine is Not being Applied here because of Contractual
12 Obligation and Liability by the City of Dublin Police Services and Alameda County Sheriffs
13 Department.

14 Let Judicial Notice be taken, here that R Lance and Son (Towing Agency) Seized,
15 Towed and Stored my Vehicle and is a Named Defendant and Co-Conspirator.

16 **(# 2.) - FALSE ARREST FROM PRIVATE PROPERTY.**

17 I was Falsely Arrested from Private Parking Lot Under the color of State Law for
18 Vehicle Code Violation. The Vehicle Code of California has No Jurisdiction on Private Property.
19 Thus the Named Dublin Police Officer had No Jurisdiction or Probable Cause for Arrest. The
20 Police Office Named **(JEAN ZEDLITZ #1625)**, must have and Should have Known that the
21 California Vehicle Code has No Jurisdiction upon a Private Parking Lot. The Named Police
22 did Arrest me without Probable Cause from a Private Parking Lot in Violation of the Fourth,
23 Fifth, and Fourteenth Amendments U.S. Constitution, 42 U.S.C.A. Section 1983 and Cruel and
24 Unusual Punishment of the Eighth Amendment. This is an Action that arises Under the Color
25
26
27
28

1 of State Law in violation of the Fourteenth Amendment. Let also Judicial Notice be taken here,
2 that the Named Police Officer is an Alameda County Sheriff's Deputy.

3
4 The Deputy Sherif must have Known that her Acts, Action, Omission and Acts of
5 Omissions where Clearly in Violation thereof and a Deprivation of my Civil and Constitutional
6 Rights. Let Judicial Notice be taken here, that I told this Deputy Sherif (Officer) 3 times
7 that she was Arresting my from Private Property and I her for the Property Owners
8 Permission and or Complaint against me. Thus a Clearly I established my Constitutional Civil
9 Rights where being Violated and or Deprived. Probable Cause for Arrest for California Vehicle
10 Code or Penal Code Violation Authority does NOT exist upon Private Property or Parking Lot.
11 Thus Seizure of my Person was Unlawful, Unconstitutional and a Deprivation and Violation
12 thereof my Civil and Constitutional Rights to Personal Liberty, to be Free from Restraint and
13 Unlawful Imprisonment and or Arrest. This Right to Freedom from Restraint is Protected beyond
14 the Due Process of Law clause of the Fourteenth Amendment. It Guaranteed by the Fourth,
15 Fifth, Fourteenth, Ninth and the Privilege and Immunities Clause of the Federal Constitution.
16
17 See: Edwards v. California, 314 U.S. 160, 177, 181 (1941). I have the Inalienable Constitutional and Civil
18 Right to be Free in my Person. See: NEW YORK CITY BD. OF ESTIMATE v. MORRIS, 489 U.S. 688 (1989);
19 MASSACHUSETTS BD. OF RETIREMENT v. MURGIA, 427 U.S. 307 (197

20
21 The INALIENABLE Constitutional and Civil Right to be Free from Arrest and Seizure
22 of my Person is beyond the Right to Personal Liberty, it is Guaranteed by the Fourth
23 Amendment as well: Henry v. United States, 361 U.S. 98 (1959); Johnson v. United States, 333 U.S. 10, 16-17
24 (1948); Sibron v. New York, 392 U.S. 40, 62-63 (1968).

1
2 The Probable Cause spoken of here is on Public and Not Private Property. Public
3 Property is that property possessed and own and Regulated by the Public. Thus Violating My
4 Fourth Amendment Right to be Free on Private Property or Parking Lot. This is True where
5 I am about my Lawful Concerns and Legally Parked or moving about on that Private Parking
6 Lot. The Police (Sherif Deputy Named) had No Jurisdiction and or Authority to Enforce Vehicle
7 Code Violations upon Private Property or Parking Lot. Thus I could Not have committed a
8 Misdemeanor in the Deputy Sherif's sight, to Establish Probable Cause. Even if the Police
9 (Deputy Sherif Named) could establish that she has Permission to Patrol the Private Property
10 and Parking Lot, the question of Vehicle Code and Penal Code Authority and Jurisdiction is
11 still Lacking. Thus, establishing False and Unlawful Arrest in Excess of Lawful Authority and
12 Jurisdiction and Creating a Claim and Cause of Action under the Color of State Law (Section
13 1983). Since the Police (Deputy Sherif Named) did Not have an Arrest Warrant and or Signed
14 Complaint or Call by the Property Owner, a Fourth Amendment Violation is Established, or a
15 Tort Claim Cause of Action is Created. (A Bivens type Cause of Action). LET JUDICIAL
16 NOTICE BE TAKEN HERE, THAT THE POLICE (DEPUTY SHERIF NAMED), DID NOT
17 HAVE AN ARREST AND SEIZURE WARRANT NOR DID SHE HAVE A COMPLAINT OR
18 OTHER FROM THE PROPERTY OWNER TO ARREST. See: Id. (quoting Terry v. Ohio, 392 U.S. 1, 19
19 n.16 (1968)).

20
21 The City of Dublin Police Services and Alameda County Sheriffs Department must Except
22 Responsibility and Liability also because they have Contracted their Police Services and Liability
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1 to Suit. The Mother Superior Doctrine is Not being Applied here because of Contractual
2 Obligation and Liability by the City of Dublin Police Services and Alameda County Sheriffs
3 Department.
4

5 **(# 3.) - SEIZING OF VEHICLE PROPERTY IN VIOLATION OF THE**
6 **FOURTH AND FOURTEENTH AMENDMENTS.**

7 The Seizing of my Vehicle (Property) without Probable Cause and or a Fourth
8 Amendment Warrant on Private Property, Constitutes a Biven Type of Action and a Section
9 1983 Under the Color of State Law. The California Vehicle Code has No Jurisdiction upon
10 Private Property and or Private Parking Lot. Thus Probable Cause can only be by Fourth
11 Amendment Warrant and or Complaint from Owner of Private Parking Lot. Let also Judicial
12 Notice be taken here, that the Named Police Officer is an Alameda County Sheriff's Deputy.
13

14 Seizures of Vehicles and other Property upon Private Property or Parking Lots without
15 a Fourth Amendment Warrant Violate the Fundamental Principles of Constitutional Protection. It
16 Violates the Very Principle of Liberty and Freedom and the Right to be Free from Unlawful
17 and Unreasonable Search and Seizures. This IS GOING TO STOP - NO FURTHER. The Seizing
18 upon or on a Private Parking Lot without Seizure Warrant in the Excuse of Vehicle Code
19 Probable Cause is Unlawful. City Police Power Regulating Ordinances Drafted and written under
20 the color and Guise of State Police Power, have No Authority or Jurisdiction upon or on
21 Private Property or Parking Lots. I did OBJECT 3 times to the Offer (Sheriff Deputy Named)
22 for the Warrant-less Arrest and Seizure of my Person and Vehicle Property on the Private
23 Property and Parking Lot. Also for Lack of Probable Cause for Arrest and Seizure of my
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1 Person and Vehicle Property.

2 The Fourth Amendment provides that:

3
4 "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated"

5 See: Bell v. Hood, 327 U.S., at 684 (footnote omitted); see Bemis Bros. Bag Co. v. United States, 289 U.S. 28,
6
7 36 (1933) (Cardozo, J.); The Western Maid, 257 U.S. 419, 433 (1922) (Holmes, J.). See: Bivens, 403 U.S. 388, 393.

8 The City of Dublin Police Services and Alameda County Sheriffs Department must Except
9
10 Responsibility and Liability also because they have Contracted their Police Services and Liability
11 to Suit. The Respondent Superior Doctrine is Not being Applied here because of Contractual
12 Obligation and Liability by the City of Dublin Police Services and Alameda County Sheriffs
13 Department.
14

15 Let Judicial Notice be taken, here that R. Lance and Son (Towing Agency) Seized,
16 Towed and Stored my Vehicle and is a Named Defendant and Co-Conspirator.

17
18 **(# 4.) - ACTION UNDER THE COLOR OF STATE LAW.**

19 The Named Police Officer (**JEAN ZEDLITZ #1625**) acted under the Color of State
20 Law and Local Ordinance in violation of the Fourteenth Amendment and the Fourth Amendment
21 in the Unlawful and Wrongfully Seizing and Towing of my Vehicle from a Private Parking
22 Lot. The Named Police (Sheriff Deputy) Clearly Acted under the Authority of City Ordinance
23 and California Vehicle Code and Penal Code. The City Ordinance gives the Authority to Use
24 the Police Powers and California Vehicle Code upon the Private Parking Lots in Excess of
25
26 Limitations by the Federal and State Constitutions and Federal Law. A Private Parking Lot is
27
28

is Not Public Property and under the Jurisdiction and Regulation of the California and Dublin City Police Powers and California Vehicle Code. This Private Property and Parking Lot is Not proper and Lawful Subject of the Police Power Regulations and California Vehicle Code. The Individual's Liability in this Action under the Color of State Law and Local City Ordinance is also upon the City of Dublin and Alameda County. Because She the Sheriff Deputy acted under the County of Alameda and the City of Dublin Police Services Authority and Jurisdiction. The Sheriff Deputy did as she was Directed to do Acting in excess and with Misuse of Police Powers under the color and Guise of State Law and City Ordinance. See:

Henig v. Odorico, C.A. 3 (Pa.) 1967, 385 F.2d 491, certiorari denied 88 S.Ct. 1269, 390 U.S. 1016, 20 L.Ed.2d 166, rehearing denied 88 S.Ct. 1814, 391 U.S. 929, 20 L.Ed.2d 671. See, also, Basista v. Weir, C.A. 3 (Pa.) 1965, 340 F.2d 74; Baldwin v. Morgan, C.A. Ala. 1958, 251 F.2d 780; Gesch v. Mornahan, C.A. Ill. 1963, 207 F.2d 714; Picking v. Pennsylvania R. Co., C.C.A. Pa. 1945, 151 F.2d 240, rehearing denied 152 F.2d 753; Nugent v. Shepard, D.C. Ind. 1970, 318 F.Supp. 314; Culbertson v. Leland, C.A. 9 (Ariz.) 1975, 528 F.2d 426.

Let Judicial Notice be taken here that the Property Owner(s) may also share Liability by agreement with the Named Defendants pursuant to a Conspiracy in Excess and Misuse of Police Powers in False Arrest and Imprisonment; Unlawful and Wrongful Tow and Seizing of my Vehicle Property.

A § 1983 conspiracy claim may arise when a private actor conspires with a state actor to deprive a person of a constitutional right under color of state law. Dixon v. City of Lawton, Okl., CA10 (Okla.) 1990, 898 F.2d 1443.

Thus, Creating and Establishing Causes of Actions and Claims of False Arrest and Imprisonment; Unlawful Seizure of my Person Fourth Amendment; Unlawful and Wrongful tow and Seizing of my Vehicle Property under Fourth and Fourteenth Amendments; Cruel and Unusual Punishment all under the Color of State Law Section 1983.

5.) - CITY OF DUBLIN CALIFORNIA AND POLICE DEPARTMENT AUTHORITY USED IN SEIZURE OF MY PERSON AND VEHICLE

PROPERTY.

The Named Police Officer (**JEAN ZEDLITZ #1625**) Acted under the Authority of the City of Dublin and Dublin Police Department City Ordinance and Agreement with Parking Lot Owner. The Vehicle Code of California has No Authority upon Private Land or Private Parking Lots. Thus Local City Ordinance, Rule and Agreement with Property Owner are also the parties of Interest. Thus they are Parties of Responsibility also. Thus, they are Responsible for all Acts also because the Police Officer Acted under their Authority, Guidance and Training. Let also Judicial Notice be taken here, that the Named Police Officer is an Alameda County Sheriff's Deputy. Thus the City of Dublin Police Services and the County of Alameda are Liable also because they gave her the Authority and must have Granted Incident Action taken against me. The Named Police (Sheriff Deputy) was in constant Voice communication with the Police Dispatch and the Alameda County Sheriffs Department. Thus they her Superiors where in Total Agreement with the (Deputy Sheriff's) Acts of Deprivation, Acts in Excess and with Misuse of Power under the Color of Police Powers, California Vehicle Code and Penal Code, plus City Ordinance. Thus Alameda County and City of Dublin Police Services have full liability as Named Defendants, Not Mother Superior Doctrine but as Ordering her to Act of Deprivation. Thus the City of Dublin Police Services and Alameda County bear equal Liability in Sheriff Deputy's Deprivation of my Civil and Constitutional Rights and Misuse and Acts in Excess of Lawful Authority and Jurisdiction. See: Continental Casualty Co. v. United States, 113 F.2d 284 (5th Cir. 1940).

It must be Recognized here that the City of Dublin Police Services and County of Alameda Ordinances and Practices and Training of Police (Deputy Sheriffs), where thus Instructed

1 that the California Vehicle Code had Jurisdiction and Authority upon Private Property and
2 Parking Lots. The Police Deputy Sheriff must have Known that the Vehicle Code has No
3 Authority and Jurisdiction upon Private Property and Parking Lot. The City of Dublin or County
4 of Alameda Does Not have the Authority to Delegate Authority they do Not possess. The Police
5 (Deputy Sheriff) has a Duty to know the Law and Know what her Authority is and what is
6 in Excess of her Authority and Jurisdiction of the Police Powers. It is at her Peril that she
7 Exercises the Power of Arrest and Seizure of Persons and Property. The Named Officer (Sheriff
8 Deputy) must have Known that Probable Cause for an Arrest from Private Property or Parking
9 Lot can Not be Had by the California Vehicle Code Violation. A Contract with the Own or
10 Not the Police Powers under the Vehicle Code is Lacking. See: P.B. v. Koch, C.A.9 (Idaho) 1996, 96
11 F.3d 1298.
12
13
14

15 Let Judicial Notice be taken here that I Objected timely to the Police (Sheriff Deputy)
16 that I was on Private Property or Parking Lot and her Probable Cause under the Vehicle Did
17 Not have Authority or Jurisdiction. The City of Dublin Police Services are Responsible here also
18 and share Liability with their Police Officer's, Contracted Alameda County Sheriff Deputies and
19 other Agents Representing them. The City Authority to do the Act of Deprivation is one of
20 the Causes.
21
22

23 The City of Dublin Police Services and Alameda County Sheriffs Department must Except
24 Responsibility and Liability also because they have Contracted their Police Services and Liability
25 to Suit. The Mother Superior Doctrine is Not being Applied here because of Contractual
26 Obligation and Liability by the City of Dublin Police Services and Alameda County Sheriffs
27
28

1 Department.

2 Let Judicial Notice be taken, here that R Lance and Son (Towing Agency) Seized,
3 Towed and Stored my Vehicle and is a Named Defendant and Co-Conspirator.
4

5
6 **(# 6.) - FALSE IMPRISONMENT.**

7 The Named Police Officer ¹(JEAN ZEDLITZ #1625) Did Falsely Imprison me at
8 Santa Rita County Jail (Alameda County). Thus Responsibility of False Imprisonment falls on
9 Alameda County and the City of Dublin California. Since I was Imprison at Santa Rita which
10 is Owned and Operated by the County of Alameda and its within the City of Dublin
11 California's Property, Thus, Alameda County and the City of Dublin California share Liability.
12 Let also Judicial Notice be taken here, that the Named Police Officer is an Alameda County
13 Sheriff's Deputy. Thus establishing a Cause of Action against the City of Dublin California and
14 Alameda County.
15
16

17 The City of Dublin Police Services and the Alameda County Sheriff's Department held
18 False Imprisonment of my Person. I was held for a Misdemeanor Vehicle Code Violation in
19 Police Officer Traffic Jurisdiction upon a Private Parking lot (Private Property). There can be
20 No Vehicle Code Violations on Private Parking lots to establish Probable Cause for an Arrest
21 or Detention and Seizure of my Person. I was Held against my Will without Lawful Probable
22 Cause and or Fourth Amendment Arrest Warrant. See: Mallory v. United States, 354 U.S. 449, 454 (1957).
23
24

25 The Police (Sheriff Deputy could Not have established Probable Cause from the California
26

27
28 ¹Alameda County Deputy Sheriff Officer contracted to the Dublin Police Services.

1 Vehicle Code upon Private Property and Parking Lot. See: Alabama v. White, 496 U.S. 325 (1990).

2 The Reasonable Suspicion cannot Exist on Private Property and Parking Lot from the
3 Violation of the California Vehicle Code. The Named Police (Deputy Sheriff) did Not Receive
4 a Complaint about my Conduct from the Property Owner. A Call from the Property Owner is
5 a Required Element of Probable Cause for Arrest on Private Property. The Nexus of Probable
6 Cause for an Arrest and Seizure of my Person from Private Property and Parking Lot must
7 be a Complaint from the Property Owner or Administrator. Thus, Probable Cause can Not Exist
8 in Lawful Terms. The Police (Deputy Sheriff) did Not have a Felony Probable Cause Warrant
9 for my Arrest on her Person. Thus failing another Required Element for Probable Cause for
10 Arrest and Seizure of my Person upon Private Property and Parking Lot. The Police Powers
11 must be Limited to its Proper and Lawful limits. The Fourth and Fourteenth Amendments U.S.
12 Constitution stand as Barrier against Unlawful Seizures and Arrest of Persons and Property upon
13 Private Property. The Public and or State Interest has No Jurisdiction and or Authority upon
14 Private Property and Parking Lots of the State. Compelling Public Interest Cannot be Argument
15 for the Exercising of the Police Powers and California Vehicle Code upon Private Property and
16 Parking Lot. The Public cannot choose to Regulate by the California Vehicle Code upon Non
17 Public Property. See: (7 McQuillin, Municipal Corporations, 1968 Rev. Vol., § 24.322, pp. 201- 202.) Harriman v. City
18 of Beverly Hills, 275 Cal. App.2d 918.

19 The Police Powers have No Authority or Jurisdiction upon Private Property and Parking
20 Lots. The Public Interest Argument that the sale of Food or other Regulateable Items support
21 the Vehicle Code Regulations upon them MISSES THE Constitutional Mark. The Public Good

1 Police Powers must Yield to Private Property and Parking Lots, for they are Not a Proper
2 Subject of the Police Powers and California Vehicle Code. It is attempt at Malicious Prosecution
3 and False Arrest and Seizure of my Person, to Use the California Vehicle Code as the
4 Authority of Probable Cause. See: Washington v. Summerville, 127 F.3d 552, 559 (7th Cir. 1997), cert. denied,
5 118 S. Ct. 1515 (1998); Reed, 77 F.3d at 1053-54.
6

7 To Falsely Arrest me and Seize my Person Unlawfully from Private Property without
8 Lawful Probable Cause Creates a Cause of Action under Section 1983 for False Arrest and
9 False Imprisonment.
10

11 I was Held (Imprisoned) at Santa Rita Jail overnight against my Will and over my
12 OBJECTION without Lawful Cause. I was Denied my Fourth and Fourteenth Amendment Rights
13 to be Secure from False Arrest, Seizure of my Person and False Imprisonment against my Will.
14 I was Not given an Arrest Warrant for Arrest and Seizure of my Person from Private Property.
15 I was Paraded around the Public as a Convicted Murderer, Criminal or Bad Person. I was
16 Denied the Dignity of Privacy, the God-given Right to Freedom from Restraint, and the Right
17 to Personal Liberty. I was Unlawfully, Unjustly and in Violation of my Constitutional and Civil
18 Rights subjected to and Treated like a Criminal without Cause. I was Denied the UNALIENABLE
19 Right to Freedom from Unlawful and Unjustified Arrest. See: SANDIN v. CONNER, 515 U.S. 472 (1995).
20
21

22 The City of Dublin and the other Named Defendants have Not Demonstrated a Special
23 or Emergency Circumstance to warrant an Arrest and Seizure of my Person upon Private
24 Property and Parking Lot. Thus Police Power Regulation or Condition for Probable Cause under
25 California Vehicle Code, upon Private Property must be Held as Not Valid and without
26
27
28

1 Authority. Thus, Creating and Establishing Cause of Action for False Arrest, False Imprisonment
2 and Unlawful Seizure of my Person under Section 1983. The United States of America stands
3 for Freedom, Liberty and Justice for All. See: United States v. Reese, 92 U.S. 214, 218; BELL v. MARYLAND,
4 378 U.S. 226 (1964)..

5
6 I have Inalienable Right to be Free from Unlawful and False Arrest and Imprisonment
7 is an Unalienable Right. There can be No Good-Faith Qualified Immunity for a Police (Deputy
8 Sheriff) that acts without Lawful Authority or Jurisdiction to Act. The Police (Sheriff Deputy)
9 had to known or must have Known that the California Vehicle Code had No Authority and
10 or Jurisdiction upon Private Property and Parking Lots. A Police (Sheriff Deputy) cannot Claim
11 Acting in Good Faith in False Arrest, Seizure of my Person and False Imprisonment Actions.
12 Let Judicial Notice be taken here that, I did Warn and Object to being Seized and Arrested
13 from Private Property and Parking Lot on Vehicle Code or Penal Code Authority. Let further
14 Judicial Notice be Taken, here that I Established and Claimed a Valid Constitutional and
15 Civil Right to the Police (Sheriff Deputy). I Objected to her Violation of my Civil and
16 Constitutional Rights on Private Property. I Clearly Established my Right to be Free from
17 Unlawful and False Arrest, Seizure of my Person, False and Unlawful Imprisonment. See:
18 Robichaud v. Ronan, (9th Cir. 1965) 351 F.2d 533. I have Not Surrendered my Constitutional and Civil
19 Rights to the State of California.

20
21 Thus, Claim and Cause of Action under Section 1983 is Established for False and
22 Unlawful Imprisonment False and Unlawful Arrest and Unlawful Seizure of my Person, under
23 the Color of State Law.

(# 6.) - FALSE IMPRISONMENT.

I must bring the Charge of CRUEL and UNUSUAL PUNISHMENT against the County of Alameda who runs and Controls the Santa Rita Jail. I bring this Charge for being forced to Confinement in a Jail Room that is Dirty, Unhealthy, and Toilet is Dirty, Unhealthy and the Only Drinking water is above that Toilet. It Violates my Right to be Free from Cruel and Unusual Punishment and the Basic Human Rights to be Treated with Dignity Confined in a Jail that is Humane and Clean. I bring this Charge against Alameda County Sheriffs Department, the City Dublin Police Services who uses Santa Rita Jail and the Named Police Officer (Sheriff Deputy) the all bear Liability and Responsibility. Being Jailed for even one Night is an Act Under the Color of State Law Vehicle Code and Penal Code. I Have the Constitutional and Civil Right to be Treated Fairly and Imprisoned even for just a Day in Humane Conditions that are Free from Health Hazards and that Provide the Basic Requirements of Protection of Life. I have Unalienable Civil and Constitutional Right to Protection of my Life against Unhealthy Imprisonment. 6 Men Imprisoned in a Cement Cell without Sleeping Necessities such as Mattress, Pillow, and Blanket for comfort and the Protection of Life. Being forced to sleep in Cold Cell on Cold, Hard Cement Floors or Bench with No Blankets, Pillow or Mattress is INHUMANE. I am a Free Man being Held against my Will in Inhumane and Unhealthy Imprisonment Conditions that Fail the Health Standard is Unlawful and a Violation of my Civil and Constitutional Rights. It is further Cruel and Unusual Punishment. See: HUTTO v. FINNEY, 437 U.S. 678 (1978) .

Forced Confinement (Imprisonment) In Unhealthy and Inhumane and Dirty Conditions that

1 present real Health Hazards to the Protection of my Life violates my God-given Unalienable
2 Right. The First Cell I was Detained in was Dirty and Filthy with old Food on the Floor,
3 A Dirty and Unhealthy Toilet with Drinking Water above that Toilet. Is this Humane Treatment
4 and Dignity being shown to me? A Dirty Cell with a Phone that doesn't work for 5 hours,
5 this is the First Cell. The Second Cell, Dirty with 25 Men in a 12 by 18 Cell with a Dirty
6 Toilet and a Drinking Fountain that is Dirty above that Toilet. No place to sleep except hard
7 cement floor too many man in this cell, overcrowded. The third Cell 6 Men Imprisoned in a
8 Cement Cell without Sleeping Necessities such as Mattress, Pillow, and Blanket for comfort and
9 the Protection of Life. Being forced to sleep in Cold Cell on Cold, Hard Cement Floors or
10 Bench with No Blankets, Pillow or Mattress is INHUMANE. I am being Punished in In-Humane
11 Cells and Sleeping Quarters because I Violated the California Vehicle Code upon Private
12 Property. It was also a Night that the City Police (Sheriff Deputies) had to Arrest as many
13 People as possible to make more money for the City of Dublin. In-Humane Treatment and All,
14 and Punishment for Misdemeanor Crimes. 356 U.S. at 99-100. Estelle v. Gamble, supra, at 102, quoting
15 Jackson v. Bishop, 404 F.2d 571, 579 (CA8 1968).

16 The idea Cruel and Unusual Punishment in Inhumane and Unhealthy and Denied the basic
17 Fundamental Needs for the protection of Life and being Held against my Will Unlawfully is
18 Deprivation and Punishment at the Highest Level.

19 The City of Dublin Police Services and Alameda County Sheriffs Department must Except
20 Responsibility and Liability also because they have Contracted their Police Services and Liability

1 to Suit. The Mother Superior Doctrine is Not being Applied here because of Contractual
2 Obligation and Liability by the City of Dublin Police Services and Alameda County Sheriffs
3 Department.
4

5 **(QUALIFIED IMMUNITY)**

6 The Named Police (Sheriffs Deputy) cannot Claim Qualified and or Good Faith Immunity
7 as a Defense. I Clearly Objected and Established my Civil and Constitutional Rights and that
8 the Named ²Officer was Arresting me and Seizing my Person and Vehicle Property from Private
9 Property and Parking Lot and that the California Vehicle Code has No Jurisdiction or Authority.
10 Let Judicial Notice be taken her that I made this same OBJECTION 3 times. The ³Police told
11 me that she did Not Care because the Property Owner and City have a Contract for Police
12 to give Security on the Private Property and Parking Lots. This still does Not give the
13 California Vehicle Code Jurisdiction and Authority for Probable Cause for Arrest and Seizure
14 of my Person and Vehicle Property. See: Wilson v. Layne, (U.S. Md. 1999) 526 U.S. 603, 119 S. Ct. 1692, 143
15 L. Ed. 2d 818. see also: Saucier v. Katz, (U.S. 2001), 533 U.S. 194, 121 S. Ct. 2151, 150 L. Ed. 2d. 272.
16
17
18

19 I Clearly Established my Right to Freedom, Liberty and Right to Possess my Vehicle
20 Property and keep it from being Unlawfully Seized and my Person from being Unlawfully
21 Arrested and Seized without Probable Cause under the Color of California Vehicle Code.
22

23 The Named Officer must have Known and or should have Known that the California
24 Vehicle Code has No Jurisdiction and or Authority upon Private Property and Parking Lot.
25

26
27 ² Deputy Sheriff JEAN ZEDLITZ #1625

28 ³ Deputy Sheriff JEAN ZEDLITZ #1625

1 See: P.B. v. Koch, C.A.9 (Idaho) 1996, 96 F.3d 1298.

2 The Named Police (Sheriff Deputy) cannot Claim or Rely on that she Relied in Good
3 Faith that her Arrest, Seizure of my Person and Vehicle Property where Lawful. I Clearly
4 Objected 3 times stating that her Reliance in Good Faith upon the California Vehicle Code,
5 for Probable Cause for Arrest and Seizure of my Person and Property was Not Valid and
6 Unlawful. The Violation of my Clearly Established Right and being told that the California
7 Vehicle Code has No Jurisdiction and Authority upon Private Property and Parking Lot Vitiates
8 any Good Faith Defense Claims. Acting absent of Authority and in excess of Jurisdiction and
9 or Authority in Deprivation of Clearly Established Constitutional and Civil Rights Invalidates
10 Claim of Good Faith. The Defense of acting in Good Faith is Invalidated where the Officer
11 Arrested and Seized my Person in Clear Violation of Authority, and Jurisdiction upon Private
12 Property and Parking Lot. Acting in Good Faith is Not to be inferred where the Officer acted
13 in Excess or Absent Authority and Jurisdiction of State Law (California Vehicle Code).
14 me that she did Not Care because the Property Owner and City have a Contract for Police
15 to give Security on the Private Property and Parking Lots. This still does Not give the
16 California Vehicle Code Jurisdiction and Authority for Probable Cause for Arrest and Seizure
17 of my Person and Vehicle Property. See: Wilson v. Layne, (U.S. Md. 1999) 526 U.S. 603, 119 S. Ct. 1692, 143
18 L. Ed. 2d 818. see also: Saucier v. Katz, (U.S. 2001), 533 U.S. 194, 121 S. Ct. 2151, 150 L. Ed. 2d. 272.

19 I Clearly Established my Right to Freedom, Liberty and Right to Possess my Vehicle
20 Property and keep it from being Unlawfully Seized and my Person from being Unlawfully
21 Arrested and Seized without Probable Cause under the Color of California Vehicle Code.
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1 The Named Officer must have Known and or should have Known that the California
2 Vehicle Code has No Jurisdiction and or Authority upon Private Property and Parking Lot.
3 The Named Police (Sheriff Deputy) cannot Claim or Rely on that she Relied in Good
4 Faith that her Arrest, Seizure of my Person and Vehicle Property where Lawful. I Clearly
5 Objected 3 times stating that her Reliance in Good Faith upon the California Vehicle Code,
6 for Probable Cause for Arrest and Seizure of my Person and Property was Not Valid and
7 Unlawful. The Violation of my Clearly Established Right and being told that the California
8 Vehicle Code has No Jurisdiction and Authority upon Private Property and Parking Lot Vitiates
9 any Good Faith Defense Claims. Acting absent of Authority and in excess of Jurisdiction and
10 or Authority in Deprivation of Clearly Established Constitutional and Civil Rights Invalidates
11 Claim of Good Faith. The Defense of acting in Good Faith is Invalidated where the Officer
12 Arrested and Seized my Person in Clear Violation of Authority, and Jurisdiction upon Private
13 Property and Parking Lot. Acting in Good Faith is Not to be inferred where the Officer acted
14 in Excess or Absent Authority and Jurisdiction of State Law (California Vehicle Code). See:
15 Harlow v. Fitzgerald, 457 U.S. 800, 818 (1982); P.B. v. Koch, C.A.9 (Idaho) 1996, 96 F.3d 1298. See also Herb Hallman
16 Chevrolet, Inc. v. Nash-Holmes, No. 97-15275, 1999 WL 104736 (9th Cir. Mar. 3, 1999). Anderson v. Creighton, 483
17 U.S. 635 (1987); Allen v. Sakai, 48 F.3d 1082, 1087 (9th Cir. 1994).

23 It is Clearly a Common Law Rule and Constitutional Rule that the State Police Powers
24 Do Not have Jurisdiction and Authority upon Private Property not owned by the State, County
25 or City. Thus the Named Police (Sheriff Deputy) Clearly MUST HAVE KNOWN that her
26 Probable Cause from the Vehicle Code for an Arrest and Seizure of my Person and Vehicle
27
28

1 Property was Not Valid. This is Especially True where I OBJECTED 3 times and told the
2 Officer that her actions where Not Valid upon Private Property and Parking Lot. I Clearly and
3 Repeatedly Established my Constitutional and Civil Right against Unlawful, Arrest and Seizure
4 of my Person and Vehicle Property. See: Portland v. Bagley, 988 F.2d 868, 871 (9th Cir. 1993); see also
5 Anderson v. Creighton, 483 U.S. 635, 641 (1987) .

7 The Fourth Amendment is Very Clear about Probable Cause for an Arrest and Seizure
8 of my Person upon a Private Property and Parking Lot. The Police (Sheriff Deputy Named) did
9 Not Have a Complaint from the Property and Parking Lot Owner and a Fourth Amendment
10 Warrant for my Arrest which would be Probable Cause for an Arrest. Thus Good Faith Defense
11 is not Valid because of Acting in Absents of all Jurisdiction and or Authority. Reliance in
12 Good Faith cannot be used where an Office has Clearly acted outside of Lawful Authority and
13 in Absence of Jurisdiction. Good Faith is Not a Valid Claim for Defense of Violation of a
14 Clearly Established Right and in Violation of Authority and in Absence of Jurisdiction. See:
15 Glasson v. Louisville, 518 F.2d 899, 909, cert denied, 423 U.S. 930, citing Butler v. United States, 365 F. Supp. 1035,
16 1045. Glasson v. City of Louisville, 518 F.2d 899, 909 (9th Cir 1975), Palson v. Ray, 386 U.S. 547 (1967); Monroe v.
17 Pape, 365 U.S. 167; Scott v. Vandiver, 476 f.2D (4th Cir 1973); Rodrigues v. Jones, 473 F.2d 599 5th Cir 1973); Dowsey
18 v. Wilkins, 467 F.2d 1022 (5th Cir 1972).

23 Exercising of Police Power Regulation (California Vehicle Code) upon Private Property and
24 parking Lot is an Unlawful and Unconstitutional expansion of Police Powers beyond their
25 Lawful Limits. The Named Police (Deputy Sheriff), the City of Dublin Police Services, the
26 County of Alameda Sheriffs Department all share an Equal Liability for the Deprivation and
27
28

1 Violation of my Civil Rights under the Color and Guise of State Law, Local City Ordinance
2 and or Custom. The City of Dublin Police Services are Responsible here also and share
3 Liability with their Police Officer's, Contracted Alameda County Sheriff Deputies and other
4 Agents Representing them. The City Authority to do the Act of Deprivation is one of the
5 Causes. Let Judicial Notice be taken here that the City of Dublin Contract with the Alameda
6 County Sheriffs Department for Police Services with Deputy Sheriffs. Thus a Conspiracy to act
7 under an Proven Agreement and or Contract is Established of 2 or more Persons. A City or
8 Municipal Government is a person Under a Conspiracy Theory. The City of Dublin Police
9 Services must Except Responsibility and Liability also because they have Contracted their Police
10 Services and Liability to Suit. The Mother Superior Doctrine is Not being Applied here because
11 of Contractual Obligation and Liability by the City of Dublin Police Services and Alameda
12 County Sheriffs Department. See: Scheuer, I' 416 U.S. at 245, 94 S.Ct. at 1691.

16 The City of Dublin Police Services and the County of Alameda Sheriffs Department are
17 Not Immune from suit: See: Brandon v. Holt, 469 U.S. 464, 473 (1985); see also: Chew v. Gates, 27 F.3d 1432,
18 1439 (9th Cir. 1994).

20 Thus for the Fallowing Lawful Reasons, Qualified and Good Faith Immunity cannot
21 be Claimed:

- 23 * California Vehicle Code has No Authority and or Jurisdiction upon Private Property and Parking Lot.
- 24 * Probable Cause From California Vehicle Code Violations did Not have Jurisdiction and Authority on
- 25 Private Property and Parking Lots.
- 26 * I have Clearly Established my Civil and Constitutional Right Violation and or Deprivation.
- 27 * Police (Deputy Sheriff Name) acted absent Jurisdiction and or Authority upon Private Property and
- 28

1 Parking Lot.

2 * Police (Deputy Sheriff Named) acted Unlawfully In Arresting and Seizing my Person and Vehicle
3 Property on Private Property and Parking Lot.

4 * No Complaint from Property and Parking Lot Owner and Fourth Amendment Seizure Warrant for
5 Arresting and Seizing my Person and Vehicle Property - NO PROBABLE CAUSE.

6 * Contractual Agreement between City of Dublin Police Services, Alameda County Sheriffs Department, and
7 Named Police (Sheriff Deputy).

8 * I Objected and warned Police (Deputy Sheriff) Named 3 time that Probable Cause did Not Exist
9 because Authority and Jurisdiction from the Vehicle Code upon Private Property was Lacking.

10 * Subjective Good Faith is Lacking because of lack of Authority and Absent Jurisdiction of Vehicle Code
11 upon Private Property and Parking Lot.

12 See: Owens v. The City of Independence, 445 U.S. 622 (1980). (Director General vs Kastenbaum, 362 U.S. 25).

13 Thus, Subjective Good Faith is Not Present or Allowable because Authority and
14 Jurisdiction absent and or Lacking. The Police (Deputy Sheriff Named) Clearly Must have
15 Known that her Authority and Jurisdiction was Lacking. She the Named Police (Deputy Sheriff
16 Named) Intentionally, Willfully, Knowingly with Wanton Intent on Malice Acted in Violation of
17 and in Deprivation of my Federal Constitutional and Civil Rights. The Named Police (Sheriff
18 Deputy Clearly must have Known that her Acts of Deprivation where in Violation of my Civil
19 and Constitutional Rights. Violation of her Police Powers Authority and Jurisdiction by exercising
20 California Vehicle Code Authority on Private Property and Parking Lot leaves No Excuse of
21 Good Faith. I Proves Reckless attempted Expansion of California and City of Dublin Police
22 Powers beyond their Constitutional Limits.

23 There are Constitutional Limitations upon the Police to Exercise Police Powers upon
24 Private Property and Parking Lots and against the Advocacy of Creation of Police State. Thus
25
26
27
28

1 the Police are Inhibited by the Constitutional Protections from exercising Police Powers and a
2 Police State upon Private Property and Parking Lots. The Authority and Jurisdiction of the
3 Police Powers and Vehicle Code is Not in the Discretion of a Police (Deputy Sheriff Named).
4 Private Property and Parking Lots are Not Public Property and a Proper Subject of the Police
5 Powers and California Vehicle Code.

7 Let Judicial Notice be taken here that the Police (Sheriff Deputy) is a Supposed Police
8 Professional with Training and Some Law Classes. With the Training and Knowledge necessary
9 to become a Police Officer and or Sheriff Deputy it must be Assumed that Named Must Have
10 Known that her Conduct was in Violation of Constitutional and Civil Rights. See: Harlow v.
11 Fitzgerald, 457 U.S. 800, 818 (1982).

14 Thus there can be No Subjective Good Faith Claim.

16 Let this Court take Further Judicial Notice that, Immunity from Suit Violates my Right
17 to Remedy for a Damage done to my Personal and Vehicle Property. Mary M. v. City of Los Angeles,
18 814 P.2d 1341, 1348 (Cal. 1991) ("a governmental entity can be held vicariously liable when a police officer acting in the
19 course and scope of employment uses excessive force or engages in assaultive conduct"); Scruggs v. Haynes, 60 Cal. Rptr.
20 355, 360 (Ct. App. 1967).

22 **(# 8.) - DENIAL OF FORFEITURE HEARING.**

23 My Vehicle Property was sold and I was Denied a Forfeiture Hearing. Let Judicial
24 Notice be Taken here that I made Several Demands for a Forfeiture Hearing with the City of
25 Dublin Police Services and Tow Agency. I was effectively Denied this Due Process of Law
26 Right to Forfeiture Hearing of Vehicle Property and the Right to Just Compensation See:
27
28

1 CALERO-TOLEDO v. PEARSON YACHT LEASING CO., 416 U.S. 663 (1974). See also: (People v. One 1941 Ford 8
2 Stake Truck, 26 Cal.2d 503 [159 P.2d 641]; People v. One 1941 Chrysler Tudor, supra; People v. One 1941 Buick Sport
3 Coupe, supra.

4
5 The Right to a Forfeiture Hearing and Jury Trial is a Common Law Right. See: People
6 v. One 1941 Chevrolet Coupe, 37 Cal.2d 283. The Right to a Post Forfeiture Hearing, Jury Trial cannot
7 be defeated or watered down out of Existence by the California Legislature. This Forfeiture
8 Hearing Right cannot be Denied because of a Police Power Regulation. See: People v. One 1941
9 Chevrolet Coupe, 37 Cal.2d 283. The Absolute Right to Trial by Jury cannot be defeated by
10 California Legislature:
11

12
13 "Colon v. Lisk, 13 App.Div. 195, 202 [43 N.Y.S. 364, 369]; State v. 1920 Studebaker, 120 Ore. 254 [251 P. 701,
14 50 A.L.R. 81]. The introduction of a new subject into a class renders it amenable to its general rules, not to its
15 exceptions. "Wood v. City of Brooklyn, 14 Barb. 425, 432; Cooley, Constitutional Limitations, 8th ed. vol. I, pp.
668-674. Cf. Moore v. Purse Seine Net, 18 Cal.2d 835, 837 [118 P.2d 1]. People v. One 1941 Chevrolet Coupe
16 , 37 Cal.2d 283.

17 (Union Insurance Co. v. United States, 73 U.S. 759, 764-766 [18 L.Ed. 879]; Armstrong's Foundry, 73 U.S. 766,
18 769 [18 L. Ed. 822]; United States v. Yamoto, 50 F.2d 599, 600; see, also, Dobbins v. United States, 95 U.S.
19 395, 404 [24 L. Ed. 637]; Goldsmith, Jr.-Grant Co. v. United States, 254 U.S. 505, 509 [41 S. Ct. 189, 65 L. Ed.
20 376]; 1 Kent's Commentaries 375-376.; People v. One 1941 Chevrolet Coupe, 37 Cal.2d 283.

21 Thus, Securing and Protecting my Fourteenth Amendment Inalienable Right to a
22 Forfeiture Hearing as a Guaranteed Right to Due Process of Law. This is Not just a Right
23 to Due Process of Law, but an Unalienable and Inalienable Right.

24 Thus, placing my Vehicle Property beyond Legislative Conditions and Prohibitions that
25 allow the Police Powers to sell Forfeited Property without a Full Jury Trial in a Forfeiture
26 Hearing.
27
28

1 The City of Dublin Police Services and ⁴Named Towing Agency have to Pay Just
2 Compensation for my Vehicle Property that was taken from me Under the Color and Guise
3 of Police Power Regulation (California Vehicle Code). Forfeiture of this Vehicle Property without
4 being Afforded and or being Denied the Right to a Forfeiture Hearing is Denial of Protection
5 of the Right to Property and or taking of Private Property without Due Process of Law. The
6 Very Fundamental Principle and Structure of the Right to Property is the Protection of it by
7 the Constitution and the Laws of the United States. It is the Duty and Obligation of this
8 Court Mandated by the Federal Constitution to the Protection of Property. The City of Dublin
9 cannot be allowed to Take Private Property without Justification, Forfeiture Hearing and Just
10 Compensation. Any other Outcome is a Violation of the Principles of Liberty, Freedom and
11 Justice for All.

12 Failure of the City of Dublin and R. Lance & Son to Provide a Post Forfeiture Hearing
13 and to Subsequently sell my Private Property (Vehicle) without Due Process of Law (Forfeiture
14 Hearing) Jury Trial creates a Cause of Action under Section 1983. See: Desert Outdoor Advertising
15 Inc., v. City of Moreno Valley, CA 9, (Cal.) 1996, 103 F.3d 814, Cert. Den., 522 U.S. 912, 118 S. Ct. 294, 139 L. Ed. 2d 330.

16 Thus, firmly Establishing a Cause of Action under Section 1983 for Failure taking and
17 Selling of Private Property without due Process of Law (Forfeiture Jury Trial Hearing).

18 **(# 9.) - CONSPIRACY UNDER THE COLOR OF LAW.**

19 I must also bring the Claim of Actions under the Color of State Law Pursuant to a

20 ⁴ R Lance & Son (Towing Agency), Named Defendant.

1 Conspiracy. The Named Defendants all acted Pursuant to a Contractual Agreement in acts,
2 Actions of Actual Deprivations and Violations of my Civil and Constitutional Rights. They all
3 Acted in Agreement Pursuant to the Same Conspiracy. They acted with the Same Agreement
4 and Pursuant to the Same Deprivation and Violation of my Civil and Constitutional Rights
5 under the Color of State Law. See: Lawline I. v. American Bar Ass'n, N.D.Ill. 1990, 738 F.Supp. 288,
6 affirmed 956 F.2d 1378, certiorari denied 114 S.Ct. 551, 126 L.Ed.2d 452.
7

8
9 The Evidence of a Conspiracy here the Police (Sheriff's Deputy) Stopped me and
10 Arrested and Seized my Person upon Private Property then Called the Tow Company R Lance
11 and Sons who Seized and Towed my Vehicle Property. This was all Carried out with the City
12 of Dublin Agreement with the Property Owners to provide Police Services (Security) for Private
13 Property. The Named Creditor carried out a Credit Collection from a Lien upon my Vehicle
14 Property under an Agreement with R Lance & Son Towing Agency.
15

16 All the Named Defendants did Act Pursuant to a Conspiracy to Deny, Deprive and
17 Violate my Constitutional and Civil Rights under the Color of State Law or City Ordinance.
18

19 **(# 10.) - DENIAL OF THE RIGHT TO TRAVEL.**

20 Denial of the Inalienable Right to Travel and Use the Public Roads and Highways for
21 the Right to Private Travel. This is a Very Controversial Subject of Right-Privilege to Drive
22 upon the Public Roads and Highways for Private Travel. But Never the Less it must be
23 brought up for Discussion and Review and this Court must Address this issue. The Right to
24 Travel upon the Public Roads and Highways is Inalienable Right that is Subject to Safety
25 Regulations and Not Conditions of Use thereof. See: Packard v. Banton, 264 U.S. 140, 144 44 S. Ct. 257,
26
27
28

69 L. Ed. 598. What good is the Inalienable Constitutional and Civil Right to Travel if I the State of California can Condition that Right to a Driver's License Privilege? What Good is the Right to Use the Public Roads and Highways when the Right to Drive my Vehicle upon them is Conditioned upon a Driver's License Privilege, that can be Suspended, Revoked and Conditioned as the California Legislature deems Proper or Necessary. The Right to Use of the Public Roads Highways for Private Travel is Not a State Granted Privilege. It is an Inalienable Constitutional and Civil Right of National Citizenship. See: Vandalia R. R. Co. v. Public Service Commission, 242 U.S. 255, 37 S. Ct. 93; Missouri Pacific Ry. Co. v. Larabee Flour Mills Co., 211 U.S. 612, 29 S. Ct. 214. (Emphasis Added). The U.S. Supreme Court called it a Right and a Privilege and Immunities of National Citizenship. See: United States v. Guest, 383 U.S. 745, 757-758 (1966). This Right to Travel and The Right to Drive upon the Public Roads and Highways must be Addressed.

(IN CONCLUSION)

In Conclusion I Move the Court to Grant the Fallowing Remedy in Damages and Punitive Damages.

DAMAGES FROM CITY OF DUBLIN FOR FALSE ARREST AND UNLAWFULLY SEIZING AND TOWING MY VEHICLE \$ 2,500,000.00 = TWO MILLION FIVE HUNDRED THOUSAND DOLLARS.

DAMAGES FROM THE ALAMEDA COUNTY SHERIF'S DEPARTMENT FOR FALSE IMPRISONMENT AND CRUEL AND UNUSUAL PUNISHMENT \$ 250,000.00 = TWO HUNDRED FIFTY THOUSAND DOLLARS.

DAMAGES FROM R. LANCE & SON FOR FORFEITURE WITHOUT FORFEITURE HEARING. \$ 250,000.00 TWO HUNDRED FIFTY THOUSAND DOLLARS. PLUS FOR FORFEITURE OF MY VEHICLE LOSS OF MY PROPERTY \$ 10,000.00 = TEN THOUSAND DOLLARS.

CREDIT REGULATING SERVICES, INC. FOR THE FALSE MISLEADING INFORMATION AND RUINING OF MY CREDIT RATING AND GOOD NAME BY FRAUD. \$ 400,000.00 = FOUR HUNDRED THOUSAND DOLLARS.

1 I ALSO SEEK \$200,000.00 TWO HUNDRED THOUSAND DOLLARS FROM EACH
2 NAMED DEFENDANT FOR PUNITIVE DAMAGES AND I AVAIL MYSELF TO ANY OTHER
3 REMEDIES OF THIS COURT THAT IT DEEMS NECESSARY AND PROPER.

4 I SEEK \$25,000.00 TWENTY FIVE THOUSAND DOLLARS FOR ACTUAL LOSS OF
5 VEHICLE VALUE AND USE THEREOF.

6 I MOVE THE COURT TO GRANT ALL DAMAGES DEMANDED FOR IN THE
7 COMPLAINT.
8
9
10

11 I WILLIAM J. WHITSITT, _____, THIS THE _____ DAY OF MARCH 2008, DO HEREBY DECLARE
12 AND AFFIRM THAT ALL THE ABOVE FACTS ARE TRUE AND CORRECT UNDER THE PENALTY OF LAW.
13
14
15

16 LET JUDICIAL NOTICE BE TAKEN HERE THAT A JURY TRIAL IS WAIVED AND I
17 MASTER OF THIS CASE AND I WILL ALONE WILL DECIDE WHICH LAW IT WILL
18 PROCEED UNDER. SEE: FAIR, THE, v. KOHLER DIE & SPECIALTY CO., 228 U.S. 22 (1913) .
19
20
21

22
23 RESPECTFULLY SUBMITTED
24
25

26 _____
27 WILLIAM J. WHITSITT

28 DATED: March 6, 2008

DEFENDANT CONTACT INFORMATION

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(925) 833-6670
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R Lance & Son, Inc.
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CREDIT REGULATING SERVICES, INC.

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1 (925) 371 - 0199